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W.P.Nos.9240, 9243 and 9249 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.03.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

**W.P.Nos.9240, 9243 and 9249 of 2023 &
WMP.Nos.9346, 9351 and 9353 of 2023**

S.Sundaresan

... Petitioner in the above W.Ps

Vs

1.Deputy Commissioner (CT) (Appeal)
Chennai – I, C.T.Building,
Annexure 3rd Floor, No.1 Greams Road,
Chennai – 600 006.

2.Commercial Tax Officer,
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
Integrated Commercial Taxes Building,
Wall Tax Road, Chennai – 600 003.

... Respondents in the above W.Ps

PRAYER in W.P.No.9240 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings of the first respondent passed in S.P./06/VAT/2023 in A.P/154/VAT/2022 dated 15.02.2023 and to quash the same insofar as directing the petitioner to furnish bank guarantee for balance tax of Rs.66,489/- and penalty of Rs.2,31,902/- in total amounting to Rs.2,98,391/- and further direct the first respondent to accept personal bond for



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a sum of Rs.2,98,391/- instead of bank guarantee pending disposal of appeal in AP/154/VAT/2022.

PRAYER in W.P.No.9243 of 2023: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings of the first respondent passed in S.P./07/VAT/2023 in A.P/155/VAT/2022 dated 15.02.2023 and to quash the same insofar as directing the petitioner to furnish bank guarantee for balance tax of Rs.94,676/- and penalty of Rs.4,67,850/- in total amounting to Rs.5,62,526/- and further direct the first respondent to accept personal bond for a sum of Rs.5,62,526/- instead of bank guarantee pending disposal of appeal in A.P/155/VAT/2022.

PRAYER in W.P.No.9249 of 2023: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings of the first respondent passed in S.P./08/VAT/2023 in A.P/156/VAT/2022 dated 15.02.2023 and to quash the same insofar as directing the petitioner to furnish bank guarantee for balance tax of Rs.3,24,603/- and penalty of Rs.9,73,809/- in total amounting to Rs.12,98,412/- and further direct the first respondent to accept personal bond for a sum of Rs.12,98,412/- instead of bank guarantee pending disposal of appeal in A.P/156/VAT/2022.

In all W.Ps.

For Petitioner : Mr.N.Murali

For Respondents : Mr.V.Prashanth Kiran
Government Advocate



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Mr.V.Prashanth Kiran, learned Government Advocate accepts notice for

the respondents and is armed with instructions to proceed with the matter finally, even at the stage of admission. Hence, by consent of both sides, these Writ Petitions are taken up for final disposal, even at the stage of admission.

2. The prayer in these writ petitions is for issuance of writ of Certiorarified Mandamus calling for the impugned proceedings of the first respondent dated 15.02.2023 and to quash the same insofar as directing the petitioner to furnish bank guarantee for balance tax and penalty and further direct the first respondent to accept personal bond instead of bank guarantee pending disposal of appeals.

3. The assessment years in question are 2013-14 to 2015-16. The first respondent, vide impugned order, while admitting that the petitioner had already paid a sum of Rs.44,100/- (W.P.No.9240 of 2023), Rs.1,09,000/- (W.P.No.9243 of 2023) and Rs.1,63,000/- (W.P.No.9249 of 2023), being 25% of the disputed tax, directed the petitioner to pay a sum of Rs.44,012/-, Rs.1,08,224/- and Rs.1,61,603/- respectively and furnish valid security by way of bank guarantee in respect of the balance of tax and penalty for an amount of Rs.2,98,391/-, Rs.5,62,526/- and Rs.12,98,412/- respectively within 30 days of the receipt of that order.

4. Learned counsel for the petitioner submits that the direction to pay the

alforesaid amount has been complied with by the petitioner. He further submits



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that the petitioner is aggrieved against the condition imposed by the first respondent in regard to the furnishing of bank guarantee for the balance of the disputed tax and penalty and requests that the same be modified by directing the petitioner to furnish a personal bond instead of bank guarantee as directed by the first appellate authority.

5. Identical requests made have been considered by this Court favourably and the conditional order modified by permitting the petitioner to furnish a personal bond in the place of bank guarantee as directed by the appellate authorities. The order of this Court, dated 31.08.2018 in Writ Petition No.22427 of 2018 is one such.

6. Mr.V.Prashanth Kiran, learned Government Advocate appearing on behalf of the respondents fairly does not dispute the aforesaid position or contest the request made.

7. In light of the aforesaid and taking into account the position that the petitioner has remitted 50% of the disputed tax, the petitioner is permitted to furnish a personal bond in respect of the balance of tax and penalty, to the tune of Rs.2,98,391/-, Rs.5,62,526/- and Rs.12,98,412/- respectively, within a period of four (4) weeks from today. Subject to the furnishing of personal bond by the petitioner, there shall be an order of stay of balance of the disputed tax and penalty till the disposal of the appeals by the first appellate authority. It is made



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clear that impugned orders dated 15.02.2023 stand modified to this limited extent alone.

8. These Writ Petitions are disposed in the aforesaid terms. No costs.

Connected Miscellaneous Petitions are closed.

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27.03.2023

Index : Yes / No

Speaking Order

Neutral Citation: Yes

To

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Annexure 3rd Floor, No.1 Greaves Road,
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Dr.ANITA SUMANTH, J.

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