

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**W.P.Nos.5936 and 5939 of 2023 and
W.M.P. Nos.5940 and 5942 of 2023**

Royal Welding Wires Private Limited,
represented by its Director
Ali Akbar

... Petitioner in both W.Ps

Vs.

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

2. Assistant Commissioner (ST),
Thirukazhukundram Assessment Circle,
No.42, Wahab Road,
Thirukazhukundram – 603 109 Respondents in both W.Ps

Prayer in both W.Ps: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent passed in S.P. No.04/VAT/2023 & S.P. No.03/VAT/2023 in AP/02/VAT/2023 & AP/01/VAT/2023 dated 02.02.2023 & 30.01.2023 and to quash the same insofar as directing the petitioner to furnish Bank Guarantee for balance tax amount of Rs.19,25,782/- and Rs.7,12,505/- and further direct the second respondent

to accept personal bond for the sum of Rs.19,25,782/- and Rs.7,12,505/- instead of Bank Guarantee pending disposal of appeal in AP/02/VAT/2023 and AP/02/VAT/2023.

For Petitioner in both W.Ps : Mr.N.Murali

For Respondents in both W.Ps : Ms.Amirtha Dinakaran,
Government Advocate

COMMON ORDER

The petitioner is aggrieved by the conditions imposed by the first respondent while granting stay of the impugned assessment orders in the Appeals filed by them. The following conditions have been imposed by the first respondent:

'5.The petitioner is directed to pay a sum of Rs.9,62,782/- and Rs.3,55,504/- of the balance amount of taxes due before the learned assessing authority on or before 03.03.2023 and 28.02.2023. With regard to balance tax of Rs.19,25,782/- and Rs.7,12,505/-, the petitioner is directed to file valid security in the form of Bank Guarantee from any of the Nationalised Banks executed in favour of the Assessing Authority concerned on or before 31.07.2023 and 28.07.2023. Thus, there will be a stay with regard to the collection of balance tax amount of Rs.19,25,782/- and Rs.7,12,505/- valid for 6 months i.e. 31.07.2023 and 28.07.2023 or till the disposal of the appeals whichever is earlier. The Bank uarantee/Security Bond is immovable property shall be kept

alive/encumbered till the disposal of the appeals.'

2.The petitioner seeks for substitution of Personal Bond as a security in lieu of Bank Guarantee.

3.Heard Mr.N.Murali, learned counsel for the petitioner and Ms.Amirtha Dinakaran, learned Government Advocate, who accepts notice on behalf of the respondents.

4.In similar circumstances, this Court by its Order dated 29.03.2019 in W.P. (MD) No.7553 of 2019 in the case of M/s.AMC Traders vs. The Appellate Deputy Commissioner (ST) (FAC) and another granted a similar relief as sought for in these writ petitions by following another decision of the Madurai Bench of this Court dated 15.02.2019 in W.P. (MD) No.3448 of 2019 in the case of M/s.Arasan Syntex Ltd. Vs the Appellate Authority/

orders and the same was substituted by a Personal Bond executed by the assessee

5.Deputy Commissioner and another. In the aforesaid decision, there was a direction by the Appellate Authority to the assessee to furnish Bank Guarantee as a condition for grant of stay of the impugned assessment

6. Since the petitioner is also similarly placed, this Court is inclined to grant a similar order as was granted by the Madurai Bench of this Court in the aforesaid decision.

7. Accordingly, these writ petitions are disposed of by directing the first respondent to accept the Personal Bond of the petitioner for the sum of Rs.19,25,782/- in respect of the assessment year 2016-17 and Rs.7,12,505/- in respect of the assessment year 2017-18 in lieu of the Bank Guarantee amounts, mentioned in the impugned orders dated 02.02.2023 and 30.01.2023 and the petitioner is directed to execute a Personal Bond as directed supra, within a period of one week from the date of receipt of a copy of this order. On receipt of the Personal Bond from the petitioner as stated supra, in lieu of the Bank Guarantee, the first respondent is directed to pass final orders on the petitioner's Statutory Appeals within a period of four weeks thereafter. Consequently, connected W.M.Ps. stand closed. No costs.

01.03.2023

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To

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ABDUL QUDDHOSE,J.

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