IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.639 of 2015
and
M.P.No.1 of 2015

M/s.Srilanand Mansions Private Limited,
rep by its Project Director Mr.Basawaraj kittur,
478/2 Part, Thulukanathammankoil Thottam,
Sholinganallur Village, Chennai-600 119. ... Appellant

Vs.

1. The Joint Commissioner,
   Enforcement-I (North),
   Greams Road, Chennai-600 006.

2. Deputy Commercial Tax Officer,
   Checkpost Officer,
   Pethikuppam Checkpost,
   Gummidipoondi, Tamilnadu. ... Respondents

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 31.3.2015 in W.P.No.9365 of 2015.

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the call for the records of the impugned Goods Detention Notice No.3477/2014-2015 dated 08/02/2015 issued by the 2nd Respondent and quash the same and direct the Respondents to release the goods detained under the aforesaid impugned Goods Detention Notice forthwith.

For Appellant : Mr.C.Saravanan

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

Questioning the Goods Detention notice dated 8.2.2015 issued by the second respondent, the writ petitioner has come with the writ petition, seeking to quash the same and to direct the respondents to release the goods. In the impugned notice, the petitioner was called upon to pay the one time tax and compounding fees as three times the tax for the release of goods.

2. The learned Single Judge considered all facts of the case and disposed of the writ petition with a direction to the respondents to release the goods on payment of one time tax component to be decided by the respondents. In respect of other claims, it was directed to abide by the adjudication proceedings.

3. The writ petitioner, who is the appellant before us, questions the legality of the order rendered by the learned Single Judge mainly on the ground that inference of tax evasion to warrant detention when return has been filed indicating "nil" as there was no transaction, while issuing the detention notice and compounding notice, is contrary to provisions of Section 67 of the Tamil Nadu Value Added Tax Act, 2006. It is further contended that the writ petitioner is importing certain goods for the purpose of construction of hotel. The said goods were detained at the check post and without proper assessment, the impugned detention notice has been issued. The writ petitioner is not liable to pay any tax. The writ petitioner is also not required to pay any amount as one time tax to be determined by the respondents within territorial jurisdiction of the State of Tamil Nadu as no sale had taken place in the State of Tamil Nadu. In the absence of sale, there is no question of making any payment of tax.

4. Be that as it may, the goods detention notice dated 8.2.2015 is in the form of show cause notice, calling upon the writ petitioner to produce all details with regard to description of goods supplied of out door type package substantial in huge value and other relevant documents for release of goods and it was further directed to make one time tax payment with compounding fees. The learned Single Judge, recording the fact about the pendency of adjudication process by the authorities in respect of the subject matter, directed to make payment of one time tax with an observation to abide by the adjudication proceedings in respect of other claims of the parties.

5. We have not noticed any infirmity or illegality in the order of the learned Single Judge. The payment of tax, if subsequently found as excess to the payment of any tax, the same is subject to refund or adjustment and as such, in order to arrange the release of detained goods, there is no illegality in directing to make payment of one time tax with an observation that for other claims, they shall abide by the adjudication proceedings and as such, interference is not warranted.

6. Resultantly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Joint Commissioner,
   Enforcement-I (North),
   Greams Road, Chennai-600 006.

2. Deputy Commercial Tax Officer,
   Checkpost Officer,
   Pethikuppam Checkpost,
   Gummidipoondi, Tamilnadu.

+1cc to Mr.C.Saravanan, Advocate, S.R.No.21011

W.A.No.639 of 2015

SV(CO)
CA(28/04/2015)