IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.04.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.10186 of 2015

and M.P.No.1 of 2015

M/s.Sri Agency
Represented by its Managing Director
Ms.A.Suvitha,
Survey No.02/3033, Plot No.10,
Shivaji Nagar,
Thanjavur - 613 001. .. Petitioner

Versus

The Commercial Tax Officer,
Roving Squad,
Villupuram. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent herein in her G.D.No.1/2015-16, dated 02.04.2015, quashing the same, with a direction to release the consignment on payment of tax of Rs.64,533/- as quantified in the compounding notice dated 02.04.2015.

For Petitioner : Ms.N.Revathi

For Respondent : Mr.V.Haribabu
Additional Government Pleader (Taxes)

O R D E R

By consent, the writ petition is taken up for final disposal

2. The petitioner claims that it is a registered dealer on the file of the Assistant Commissioner (CT), Assessment Circle-II, Thanjavur. It is engaged in the business of buying and selling cool drinks. It will purchase cool drinks from M/s.Coca-Cola Hindustan Coca-cola Beverages Private Limited, Chennai-52 which is also a registered dealer under the TNVAT Act, 2006. It is stated goods were accompanied by proper documents. However, the vehicle bearing registration No.TN45AJ 2504 in which the goods were transported, were subjected to regular course of vehicular check at Vikravandi Tollgate on 02.04.2015 at 10.50 a.m. by the Roving Squad Officials of Villupuram and during verification, it was noticed that the documents accompanying the goods are found to be defective and consequently the goods were ordered to be detained at the office premises at Villupuram, untill further orders.

3.The respondent having found that the dealer has committed offence Under Section 29, 30, 71(5)(a)/71(5)(b) and Rule 4(9) of TNVAT Act, 2006, have given the petitioner an opportunity to compound the offence under Section 72(1)(a) of TNVAT Act 2006 and imposed tax at the rate of 14.5% which works out to Rs.21,511/-. The compounding fee was also fixed at Rs.43,022/- and in aggregate arrived at a figure of Rs.64,533/-, being the total C fees payable by the petitioner. Challenging the vires of the impugned notice dated 02.04.2015 issued by the first respondent, the petitioner has filed this Writ Petition.

4.The learned counsel for the petitioner would submit that the impugned order does not refer to any failure on the part of the petitioner to pay the tax or attempt to evade tax before passing the impugned order and no personal hearing or whatsoever has been accorded to the petitioner to put forth its case and prayed that it warrants interference.

5.Heard Ms.N.Revathi, learned counsel appearing for the petitioner and the Mr.V.Haribabu, learned Additional Government Pleader (Taxes) appearing for the respondent.

6.This Court has considered similar issue in W.P.No.6736 of 2015 and W.P.No.7406 of 2015 and passed an order directing the respondent to release the goods on payment of one time tax to be decided by the respondent. In the case on hand, tax component has already been decided.

7.In the result, the Writ Petition is disposed of and the petitioner is directed to pay Rs.21,511/- without prejudice to its rights and contentions and on such payment, the respondent is directed to release the goods and the petitioner is at liberty to work out its remedy with regard to compounding fee before the Appellate Authority. No costs. Consequently, the connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ds/pri
To

The Commercial Tax Officer,
Roving Squad,
Villupuram.

+1 cc to the Government Pleader sr.19653
+1 cc to the special government pleader taxes
high court, madras19729
+1 cc to Mr.N.Revathi Advocate sr.19713

W.P.No.10186 of 2015

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