IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:- 13.05.2015

Coram

The Honourable Mr.Justice R.SUBBIAH

Writ Petition No.14399 of 2015
and
M.P.No.1 of 2015

The Supreme Industries Ltd
Rep. by J.Jayakumar
Accounts Executive/ Authorized Signatory
No.90 & 91 , Sanyasikuppam
Puducherry-605 107. ... Petitioner

Vs

The Deputy Commercial Tax Officer
Kandamangalam Check Post
Lingareddypalayam. ... Respondent

This Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records on the file of the respondent in G.D.N.No.210/2011-2012 dated 24.4.2015 and quash the same.

For Petitioner : Mr.S.N.Kirubanandam
For Respondent : Mr.S.Kanmani Annamalai
Additional Govt. Pleader (Taxes)

O R D E R

This Writ Petition has been filed for Writ of Certiorari calling for the records in G.D.N.No.210/2011-2012 dated 24.4.2015 on the file of the respondent and quash the same.

2. The petitioner is a Limited Company. The petitioner, during the course of its manufacturing activities, imported plastic raw materials from Kuwaith and cleared from port. While the goods were in transit the respondent intercepted the vehicle and issued detention order without any reason, and then the goods were directed to be released on payment of tax. Thereafter the impugned order is passed without jurisdiction. The respondent is not an assessing authority and he is conferred with power of levy of compounding fee alone. Therefore, the impugned proceedings is passed without jurisdiction, power, total non-application of mind and in violation of principles of natural justice. Hence, the petitioner has come

forward with the present Writ Petition.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The contention of the petitioner is in two fold:-

(i) The respondent is not an assessing authority and he has no jurisdiction to compound the offence on receiving the amount.
(ii) Unless and otherwise the petitioner agrees for compounding, the authority cannot compound the offence and pass orders.

5. The learned counsel for the petitioner further submitted that in an identical issue in W.P.No.937 of 2015, this Court has set aside the impugned order in that case.

6. Following the order dated 03.03.2015 passed in W.P.No.937 of 2015 and keeping in mind the submission of the learned counsel for the petitioner, this Court is constrained to pass the following order:-

The Writ Petition is allowed. The impugned order dated 24.04.2015 is set aside. However, the appropriate concerned authority is at liberty to proceed against the petitioner, if he so desires, afresh. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mra/jrl
To
The Deputy Commercial Tax Officer
Kandamangalam Check Post
Lingareddypalayam.

1 cc to Mr. S.N.Kirubanandam,Advocate, SR.No.25095
1 cc to Spl. Government Pleader(Taxes),Sr.No.25149

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ak(co)
pmk.19.5.2015