IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.28091 of 2015
and M.P.Nos.1, 2 & 3 of 2015

M/s.Sri Saraswathi Timber Mart,
Rep. by its Authorized Signatory,
Mr.Manoj R.Patel,
Son of Ravilal D.Patel,
Having its Office at
No.110, G.S.T.Road,
Chromepet,
Chennai 600 044.

... Petitioner

-Versus-

1.The Deputy Commercial Tax Officer,
Enforcement/Roving Squad,
Cuddalore.

2.The Commercial Tax Officer (Enforcement),
Roving Squad,
Office of the Assistant Commissioner (CT),
Enforcement,
Cuddalore.

3.The Joint Commissioner (Enforcement),
Vellore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to the impugned Good Detention Notice No.577/2015-16 dated 30.08.2015 issued by the 1st respondent and the Notice No.GD 577/2015-16 dated 01.09.2015 issued by the 2nd respondent and to quash the above said notices and for a consequential direction to the respondents 1 and 2 to release the lorry No.TN 69AE 3141 standing at Hotel Aryas Campus (National Highway Drivers Rest Place) at Eranchi Village, near Veppur.

For Petitioner(s)	:	Mr.K.V.Subramanian, Senior Counsel for M/s.K.V.Subramanian Associates
For Respondent	:	Mr.S.Kanmani Annamalai, AGP (T)

ORDER

Challenging the goods detention notice dated 30.08.2015 issued by the 1st respondent detaining the goods of the petitioner along with lorry and the consequential notice dated 01.09.2015 issued by the 2nd respondent determining the one time tax and giving an opportunity to compound the offence under 72(1)(a) of the Tamil Nadu Valued Added Tax Act, 2006, the petitioner has come forward with this writ petition.

2. The petitioner is a partnership firm and it is engaged in the business of import of all kinds of Timbers from various countries. According to the petitioner, in the month of October, 2014, the company imported certain quantity of timbers (Teek Wood) from a foreign country, namely, Myanmar valuing Rs.2,93,75,791/- and for want of storage facilities, the timbers have been kept in a private Bonded Yard at Turicorin. When necessity arose, the petitioner decided to bring the consignment to its business place and accordingly the petitioner brought the timbers to Chennai in a lorry. While so, en route to Chennai, the lorry was intercepted by the officials of the respondent department and the goods along with lorry were detained for want of certain documents including Form KK as required under the TNVAT Act. Hence, the impugned goods detention notice came to be issued by the 1st respondent and thereafter, based on the above said notice, the 2nd respondent issued a notice determining the one time tax and also giving an opportunity to the petitioner to compound the offence. The said notices are put under challenge in this writ petition.

3. Heard both sides and also perused the available records carefully.

4. When this writ petition came up for admission, the learned counsel for the petitioner submitted that, though the goods detention notice and the consequential notice determining tax and compounding fees are put under challenge, the petitioner company are ready to pay one time tax without prejudice to their contentions and therefore, the petitioner would be satisfied if the respondent is directed to release the goods forthwith along with lorry on payment of one time tax by the petitioner. The said statement is recorded.

5. Mr.Kanmani Annamalai, the learned Additional Government Pleader (Taxes), who takes notice for the respondent, submitted that he has no objection for passing an order directing the goods

be released on payment of one time tax.

6. In view of the above, the writ petition is disposed of with a direction to the respondent to pay the one time tax of Rs.3,23,785/- and on such payment, the respondents shall release the detained goods forthwith along with lorry. The respondents are at liberty to proceed against the petitioner, if so advised, in the manner known to law. It is, however, made clear that it is always open to the petitioner to agitate the proceedings in respect of composition of offence as provided under the TNVAT Act. No costs. Consequently, connected MPs are closed.
04..09..2015

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

kmk
To

1.The Deputy Commercial Tax Officer, Enforcement/Roving Squad, Cuddalore.
2.The Commercial Tax Officer (Enforcement), Roving Squad, Office of the Assistant Commissioner (CT), Enforcement, Cuddalore.
3.The Joint Commissioner (Enforcement), Vellore.

1 cc to M/s.K.V.Subramanian Associates , Advocate Sr.No.48053

W.P.No. 28091 of 2015

su(co)
pmk.4.9.2015