IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM:

THE HONOURABLE Mr.JUSTICE **R.MAHADEVAN**

W.P.No.28263 of 2015
and
M.P.No.1 of 2015

M/s.B.N.T. Innovations Private Limited
rep. by its Director ... Petitioner

Vs

1.The Deputy Commercial Tax Officer,
Enforcement, Roving Squad II,
Coimbatore - 18.

2.The Assistant Commissioner (CT),
Arumbakkam Assessment Circle,
Chennai. ...Respondents

Writ petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus to call for the impugned proceedings of the first respondent in GDR No.28077/2015-2016 dated 17.08.2015 and quash the same as issued without authority of law and further direct the respondent to release the detained consignment of 1442 pieces of ready made garments without insisting on one time tax or compounding fee.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.S.Manoharan Sundaram,
Addl. Govt. Pleader (T)

ORDER

Challenging the compounding notice dated 17.08.2015 issued by the first respondent and for a further direction to the first respondent to release the detained consignment of 1442 pieces of ready made garments without insisting on one time tax or compounding fee, the petitioner has filed the present writ petition.

2.The petitioner is a manufacturer of ready made garments and the goods viz., ready made garments that were sent by the petitioner from one production unit to another unit in Tiruppur, have been detained by the first respondent on 17.08.2015 on the ground that the value of the goods have not been mentioned in Form JJ. Subsequently, the first respondent issued a show cause notice dated 17.08.2015, to which, the petitioner submitted a detailed reply dated 22.08.2015. In the reply, the petitioner has stated that due to oversight, the value of the goods was omitted to be mentioned but the addresses of both the units were clearly mentioned. According to the petitioner, it was only after receipt of reply dated 22.08.2015, the first respondent, issued the impugned compounding notice dated 17.08.2015, directing the petitioner to make payment of Rs.1,73,040/- towards compounding fee and Rs.3,75,000/- towards tax. Aggrieved against the same, the petitioner is before this Court with this writ petition.

3.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

4.Learned counsel appearing for the petitioner would submit that the goods were transported only by way of stock transfer from one unit to other unit and not for sale. He would further submit that the petitioner has not committed any offence under Sections 71(3)(e) and 71(8) of the TNVAT Act and therefore, the detention of goods and demanding tax and compounding fee are contrary to the provisions of the Act.

5.Per contra, learned Additional government Pleader appearing for the respondents made his submissions, supporting the impugned proceedings.

6.Considering the submissions made by the learned counsel on either side, this Court is of the view that the goods may be released on payment of tax, to be quantified by the first respondent. Since there are discrepancies with regard to turnover as well as tax to be levied, the first respondent is directed to quantify the actual turn over as well as tax to be paid by the petitioner, in consultation with the assessing authority, within a period of one week from the date of receipt of a copy of this order. On such quantification of tax by the first respondent, the petitioner is directed to pay the same. On such payment of tax and on production of proof of payment, the first respondent is directed to release the goods forthwith. Insofar as the compounding fee is concerned, it is open to the petitioner to challenge the same in the manner known to law.

7.The writ petition is disposed of with the above direction. No costs. consequently, connected miscellaneous petition is closed.

21.09.2015

Index : Yes/No
mmi

Note: Issue copy of the order on 22.09.2015

To

1.The Deputy Commercial Tax Officer,
Enforcement, Roving Squad II,
Coimbatore - 18.

2.The Assistant Commissioner (CT),
Arumbakkam Assessment Circle,
Chennai.

R. MAHADEVAN, J.

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