IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2015

CORAM:

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

W.P.No.29274 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.Ramadev Enterprises
Rep. by its Manager-I.Akbarali
No.407/1, Abbas Garden Extension
Thadagam Coimbatore-641 025
Coimbatore District [Petitioner]

Vs

1 The Assistant Commissioner(CT)
Velandipalayam Assessment Circle Coimbatore
Coimbatore District.

2 The Deputy Commercial Tax Officer
Roving Squard-V Enforcement (North)
Chennai.

[Respondents]

Writ petition has been filed under 226 of the Constitution of India for the issuance of writ of certiorari Calling for the records on the file of the 2nd Respondent in his impugned proceedings in G.D.No.4074/2015-16/RS-D/V dated 06.09.2015 quash the same as illegal and against the provisions of the Act.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.S.Kanmani Annamalai, AGP(T)

ORDER

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

2.Challenging the goods detention notice issued by the second respondent dated 06.09.2015, the petitioner has filed the present writ petition.

3.The petitioner who is engaged in the business of trading of slabs, is an assessee on the file of the second respondent. The petitioner placed an indent with M/s.Bhavani Enterprise for the supply of Ceramic Tiles and accordingly they despatched the same along with necessary documents. During transit, the vehicle was intercepted at Padiyanallur Toll Plaza and after verification, the vehicle along with the consignment was detained by the second respondent. Subsequently, the second respondent issued the impugned detention notice dated 06.09.2015 on the ground that on verification of the invoice, the value of the consignment quoted is very low and under valued and the consignee has not filed monthly return from April 2015 onwards and the vehicle was not stopped at Padhikuppam Checkpost for sealing. Aggrieved by the same, the petitioner has filed the present writ petition.

4.Learned counsel for the petitioner submitted that the consignment was accompanied by all valid documents and as regards non filing of monthly returns from April 2015 onwards, it is the bounden duty of the Assessing Officer to look into those aspects and the 2nd respondent Check Post Officer's duty is to see whether the goods are accompanied by proper documents or not. Hence, the grounds on which the goods were detained are illegal and arbitrary.

5.Heard the learned counsel for the petitioner and the learned Additional Government Pleader (T) for the respondents.

6.Considering the facts and circumstances of the case and the documents enclosed, this Court is of the view that the goods may be released on payment of tax, to be quantified by the second respondent. Accordingly, the second respondent is directed to quantify the tax payable by the petitioner and on such quantification of tax by the second respondent, the petitioner is directed to pay the same. On such payment of tax and on production of proof of payment, the goods detained shall be released forthwith. It is open to the petitioner to raise all the grounds available to them, before the assessing authority concerned.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1 The Assistant Commissioner(CT)
Velandipalayam Assessment Circle Coimbatore
Coimbatore District.

2 The Deputy Commercial Tax Officer
Roving Squard-V Enforcement (North)
Chennai.

+1 cc to Mrs.R.Hemalatha, Advocate sr.50472
+1 cc to Special government Pleader (Taxes) vide sr.50653

W.P.No.29274 of 2015

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