IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.32638 of 2015
and
M.P.No.1 of 2015

Mrs.P. Pooraneswari .. Petitioner

Vs

1. The Commercial Tax Officer (Enf),
Roving Squad, Vellore.

2. The Joint Commissioner (CT),
Enforcement, Vellore ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified Mandamus to call for the impugned proceedings of the first respondent in G.D No.578/2015-16 dated 28.9.2015 and quash the same as issued without authority of law and further direct the first respondent to release the detained consignment of Hydralic Excavator without insisting on one time tax and two times tax as compounding fee.

For Petitioner : Mr.P. Rajkumar
For Respondent : Mr.V.Haribabu,
Addl. Govt. Pleader (T)

ORDER

Heard the learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes), who takes notice for the respondent.

2. This writ petition has been filed, challenging the Goods Detention Notice No.578/2015-16 dated 28.09.2015 issued by the first respondent.

3. The case of the petitioner is that inspite of the fact the petitioner explained the first respondent with documentary evidence that after purchase of Hydraulic Excavator by paying local tax at Karnataka was moving the same directly to M/s Arupadai Infrastructure at Kancheepuram for doing labour contract, the first respondent detained the machinery and issued

the impugned compounding notice demanding one time tax and two times compounding fees for the release of the detained consignment.

4. It is the further case of the petitioner that though the actual value of the goods, according to the invoice, is Rs,.56,37,009/-, but on erroneous approach, the same has been arrived at Rs.71,00,000/-. Though the petitioner appeared before the respondent and requested the respondent to release the detained machinery, the first respondent issued the impugned compound notice dated 28.9.2015 directing the petitioner to pay one time tax and two times compounding fee by estimating the sales value of the machinery for releasing the equipment. Aggrieved over the same, the petitioner is before this Court.

5. The learned counsel for the petitioner submitted that there is no evasion of sales tax in the impugned transaction and the detention notice issued by the respondent is illegal and arbitrary. That apart, according to the learned counsel, the respondent failed to consider the fact that the goods were accompanied by invoice and other documents and that there is no failure to pay or attempt to evade tax. Hence the learned counsel for the petitioner has sought for allowing of the writ petition.

6. The learned Additional Government Pleader (Taxes) on the other hand would submit that since the goods were transferred without valid invoice, the goods were detained.

7. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to pay one time tax and on such payment, the goods detained may be directed to be released.

8. In view of the submission made by the learned counsel for the petitioner that the petitioner is willing to pay one time tax and in order to give a quietus to the issue, for the purpose of release of goods, the petitioner is directed to pay 14.5% on Rs.56,37,009/- and on payment of 14.5% on Rs.56,37,009/- by the petitioner, the first respondent, shall release the goods. With regard to compounding fee, it is always open to the petitioner to challenge the same in the manner known to law.

9. With the above direction, these writ petitions are disposed of. No costs.

sd/-
ASSISTANT REGISTRAR)CO)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

sr

To

1. The Commercial Tax Officer (Enforcement),
   Roving Squad, Vellore.

2. The Joint Commissioner (CT),
   Enforcement, Vellore

+1 CC to Mr.P. Rajkumar Advocate. SR.NO. 55883

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CO-EU
JD 14/10/2015