

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.33533 of 2015

and

M.P.Nos.1 and 2 of 2015

Tvl.Aryan Tex Trade Private Ltd.,  
rep. by its Director,  
P.S.Jayalaxmi .. Petitioner

Vs

1.The Commercial Tax Officer,  
Palladam Roving Squad (Enforcement),  
Palladam.  
2.The Joint Commissioner (CT),  
Coimbatore Division, First Floor,  
C.T.Building,  
Dr.Balasundaram Road,  
Coimbatore-641 018. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of certiorari to call for the records on the files of the second respondent in R.P.No.119/2015 dated 10.8.2015 and quash the same as being without jurisdiction, authority of law and contrary to the principle laid down by the Hon'ble Supreme Court of India in the judgment reported in (2008) 16 VST 181 (SC) (Steel Authority of India Limited Vs. Sales Tax Officer, Rourkela-I Circle and others).

For Petitioner .. Mr.R.Senniappan

For Respondents... Mr.S.Manoharan Sundaram,  
Addl.Govt.Pleader

ORDER

Challenging the order of the second respondent dated 10.08.2015, the petitioner has filed the present writ petition.

2.It is the case of the petitioner that the petitioner company viz., Tvl.Aryan Tex Trade Private Limited and Tvl.Aryan Styletex Private Limited are sister concerns having common Directors. The petitioner sold 84 sewing machines for Rs.64,49,691/- vide invoice dated 09.03.2015 to M/s.Best Machines, Tirupur and also disclosed the details of the said sales in the monthly return for the month of March, 2015. At the time of transportation of the above consignment, the first respondent detained the consignment on 10.03.2015 on the ground that the seller's TIN number has been wrongly mentioned. Immediately after receipt of notice, the petitioner appeared before the first respondent and explained that due to oversight, the TIN number of the sister concern viz., Tvl.Aryan Styletex Private Limited has been mentioned. But the first respondent directed the petitioner to make payment of Rs.3,07,128/- as advance tax and Rs.6,14,300/- as compounding fee. The first respondent released the goods on the payment made by the petitioner. Though the petitioner paid the amount for release of the goods, filed a revision petition before the second respondent, against the compounding order dated 12.03.2015. The grievance of the petitioner is that though, at the time of hearing, the petitioner submitted all the necessary documents, the second respondent did not consider the same and passed the impugned order. Hence the present writ petition.

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

4.Admittedly, the transaction between the Tvl.Aryan Tex Trade Private Limited and Tvl.Aryan Styletex Private Limited created some confusion. When this was placed before the authorities, the same was not considered and compounding notice was issued. Admittedly, the petitioner paid the entire compounding fee under protest and challenged the said order before the revisional authority. All the required documentary evidence were placed along with the grounds of revision. But in the impugned order, the Joint Commissioner, who is the revisional authority, in three lines, considered the case of the petitioner and rejected the revision of the petitioner without adducing any cogent and valid reasons. This sort of non-speaking order cannot be countenanced and will not stand in the eye of law.

5.In view of the above, the impugned order is set aside and the matter is remitted back to the second respondent for passing speaking orders on merits and in accordance with law, after considering all the relevant documents filed by the petitioner and also affording due opportunity of hearing. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

6.In the result, the writ petition is allowed. No costs.  
Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi  
To

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

2.The Joint Commissioner (CT),  
Coimbatore Division, First Floor,  
C.T.Building,  
Dr.Balasundaram Road,  
Coimbatore-641 018.

+1cc to Mr.R. Senniappan, Advocate, S.R.No.57333  
+1cc to the Government Pleader, S.R.No.57365

MSM(CO)  
EU(17/11/2015)

W.P.No.33533 of 2015

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