IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.2.2015.

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3457 of 2015
and
M.P.No.1 of 2015

Tvl. M & M Engineers
Rep by its Proprietor
Mr.K.N.Shankar
Gat No.278 Dehu Moshi Road
at Post - Moshi
Haveli District
Pune 412 105 ... Petitioner

vs.

1 The Deputy Commercial Tax Officer
Ranipet (In) Check Post
Serkadu Vellore District

2 The Joint Commissioner (CT)
Vellore Division Vellore 632 001 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the 1st respondent in his proceedings in G.D. No.275/12-13 dated 9.3.2013 (un-signed) and consequential compounding order in G.D. No. 275/2012-13 OR.No.641/12-13 dated 19.3.2013 and quash the same as illegal.

For Petitioner : Mr.P.V.Ravikumar

For Respondents: Mr.A.N.R.Jayapratap, AGP (T)

ORDER

Petitioner has come forward with the aforesaid prayer.

2. One of the contentions of the petitioner is that the order dated 9.3.2013, under which the goods of the petitioner have been detained, is an unsigned one and there was no opportunity given to the petitioner to putforth their case and hence, it is liable to be set aside and the notice and consequential order dated

19.3.2013 will have to be quashed and that the petitioner has compounded the offence by paying the entire amount. The petitioner submitted that when the petitioner represented and produced all the records to the satisfaction of the Checkpost Officer together with challan, the impugned order is liable to be set aside. The petitioner would submit that when the order is an unsigned one, it is not a valid one in the eye of law and it cannot be taken note of.

3. Even though the order is an unsigned one the petitioner had chosen to participate and submit their objections which was ultimately rejected. The contention of the respondent is that the petitioner has preferred a revision petition and the same has been rejected on 6.1.2014 and that the petitioner cannot invoke the jurisdiction of this court is well founded.

4. From a reading of the order dated 6.1.2014, which is not challenged in this writ petition, the authority has rejected the revision petition filed under section 54 on the ground that the revision petition has been filed after a delay of 75 days. Since the petitioner had suffered an order under section 54(1), the questioning of the impugned notice at this distance of time cannot be entertained. The petitioner cannot contend that there is no remedy under section 55 of the Tamil Nadu Value Added Tax Act, 2006 and it is open to the petitioner to address all his grievance before the Additional Commissioner and it is open to the authority to consider all the points raised by the petitioner and pass orders on merits and in accordance with law within a period of two weeks from the date of filing of petition under section 55.

5. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ssk.

To

1 The Deputy Commercial Tax Officer
Ranipet (In) Check Post
Serkadu Vellore District

2 The Joint Commissioner (CT)
Vellore Division Vellore 632 001

1 cc to M/s.P.V. Ravikumr, advocate, sr. 8582
1 cc to Spl. Government Pleader (Taxes), Sr. 8241

W.P.No.3457 of 2015

CA (CO)
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