IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.37515 of 2015
and
M.P.No.1 of 2015

M/s.Gupta Power Infrastructure Limited
IDCO Plot No.F/9, II D Centre,
Mukunda Prasad, Khurda - 752 057,
Odhisha.
Rep.by: P.A.Holder Mr.A.Venkatesan
S/o. Alagesan (Power Agent)
New No.122, Alwarpet Street, 2nd Floor,
Chennai - 18. ... Petitioner

Vs.

The Commercial Tax Officer
(Roving Squad),
Villupuram. ... Respondent

Prayer: The Writ Petition filed under Article 226 of the Constitution of India for issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent in G.D.No.1090/2015-16 dated 19.11.2015 and quash the same as issued without authority of law and further direct the respondent to release the detained consignment of All Aluminium Alloy Conductor (AAAC), without insisting on one time tax and two times tax as compounding fee.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent. By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed for a writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent in G.D.No.1090/2015-16 dated 19.11.2015 and quash the same as issued without authority of law and further direct the respondent to release the detained consignment of All Aluminium Alloy Conductor (AAAC), without insisting on one time tax and two times tax as compounding fee.

3. The case of the petitioner is that the goods in question was carried with all required statutory documents such as Delivery /Excise Invoice and the transport documents and that the movement goods was inter-State from the petitioner's place of business in Odisha to the consignee's place of business in Tuticorin. However, the respondent on erroneous and factually incorrect reasons have detained the consignment and levied tax at the rate of 14.5% when the goods is taxable only at the rate of 5% under the category of Aluminium Conductor steel reinforced (Commodity Code 2005).

4. The learned counsel for the petitioner submitted that there is no evasion of sales tax in the impugned transaction and the order passed by the respondent are illegal and arbitrary. It is further submitted by the learned counsel for the petitioner that the petitioner is willing to pay the tax claimed by the respondent and on such payment, the goods detained may be directed to be released.

5. Per contra, the learned Additional Government Pleader (Taxes) would contend that the goods were transferred without valid invoice and therefore, the goods were detained by the respondent.

6. Considering the submission of the learned counsel for the petitioner that the petitioner is ready to pay the tax amount of Rs.5,35,252/- claimed by the respondent and the respondent, on payment of tax amount, is directed to 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.

With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Commercial Tax Officer
(Roving Squad),
Villupuram.

+1cc to Mr.P.Rajkumar, Advocate Sr.63893

+ 1 cc to The Spl.Govt.Pleader (Taxes), Hct.Mds-104. Sr 64443 (7/1/16)

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and
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srg 25/11/2015