IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2015

Coram

The Hon'ble Mr.Justice R.Mahadevan

W.P.No.38798 of 2015
and
M.P.Nos.1 & 2 of 2015

M/s. Rattan India Apna Solar Limited
rep. by its Assistant Manager (Assets)
12th Floor, Tower A Building,
No.5, DLF Phase and DLF Cyber,
Gurgaon, Haryana 122 002.

...Petitioner

-Versus-

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

....Respondent

Prayer

Writ Petition, filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorari, to call for records on the file of the second respondent in his impugned proceedings, bearing G.D. No.1096/2015-2016, dated 28.11.2015, by the respondent herein under Section 72(1)(a) of the TNVAT Act, 2006 and quash the same.

For Petitioner : M/s. Aparna Nandakumar

For Respondent : Mr.S.Manoharan Sundaram
Additional Government Pleader

O R D E R

The petitioner challenged the goods detention notice dated 28.11.2015 on the ground that the goods imported are not intended for sale but, transported only in compliance of the contract entered by the petitioner with an Educational Institution.

2. According to the learned counsel for the petitioner the imported Solar Power System remains the property of the petitioner and that at no point of time there is a transfer of title of the goods. Since the sale of power according to the

learned counsel for the petitioner being exempted one, it falls outside the purview of the TNVAT Act. Learned counsel for the petitioner also submitted that during transportation the required documents were very much available with the petitioner and when the same were attempted to be produced before the respondent for the release of goods, the respondent insisted for payment of tax as well as compounding fee. Learned counsel further submitted that for the purpose of early release of the goods, the petitioner is inclined to pay the actual tax amount and on such payment, the goods shall be directed to be released.

3. On the other hand, learned Additional Government Pleader appearing for the respondents submitted that since the goods were not supported with the required documents and the petitioner had evaded the tax, the same were detained.

4. I have considered the rival submissions and perused the materials available on record.

5. It is the specific case of the petitioner that the goods are not meant for sale. Hence, for the purpose of early release of the goods, the petitioner is directed to pay the tax i.e., Rs.11,00,000/- (Rupees Eleven Lakhs Only) and on such payment, the goods detained shall be released forthwith. As far as the other aspect, viz., imposition of compounding fee is concerned, it is open to the petitioner to seek appropriate remedy in the manner known to law.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

smi

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Commercial Tax Officer (Enl.), Roving Squad, Villupuram.

+ 1 cc to M/s. Aparna Nandakumar, Advocate Sr 66398.

VS/CO
KR/10/12