IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3971 of 2015
and
M.P.Nos.1&2 of 2015

M/s.Swaraj Traders,
Rep. by its Manager-Naresh Kumar,
No.88, Poonamalli High Road,
Nerkundram
Chennai-600 107. .. Petitioner

Vs

The Assistant Commissioner [CT],
Enforcement,
Tuticorin. .. Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned proceeding of the respondent in Compounding Notice No.A1/1292/2014 dated 09.02.2015, quash the same as illegal and against the provisions fo the Act in so far as the petitioner is concerned.

For Petitioner : Ms.R.Hemalatha
For Respondent : Mr.V.Haribabu,
Addl. Govt. Pleader (T)

O R D E R

By the consent of either side, the Writ Petition itself is taken up for final disposal at the admission stage.

2. The petitioner has come up with the present Writ Petition to quash the order of detention passed by the respondent on 09.02.2015.

3. The petitioner firm is a registered firm under Tamilnadu Value Added Tax Act, 2006 and also under the Central Sales Tax Act, 1956. The petitioner is dealing in ceramic tiles. According to the petitioner firm, the petitioner is entitled to place orders for the supply of materials from locally or from outside the State suppliers who are also registered dealers at their respective States. It is further submitted that the consignor has dispatched the materials through containers with proper invoice/valid documents and all payments are made through bank and the materials have been supplied by the consignor against 'C' Form. The consignors have shipped the materials through clearing agent namely M/s.Shreyas Relay Systems Ltd.,/Chakiyat Agencies Pvt., Ltd., Chennai. Learned counsel further submitted that after the detention of the goods by issuance of Goods

Detention Notice, the respondent has now issued Compounding Notice in A1/1292/2014 dated 09.02.2015 demanding a sum of Rs.2000/- towards Compounding fee and tax of Rs.1,93,246/- being the tax payable on the four containers of inland import which have been detained, within 10 days of this notice and the respondent was also threatened that if the petitioner fails to pay the said amount within the stipulated period, the container detained will be sold on auction.

4. The learned counsel for the petitioner submitted that the petitioner is ready to pay one time payment of the entire tax amount assessed by the respondent, without prejudice to their right to file revision before the authority concerned.

5. On the above contention, this Court heard the learned Additional Government Pleader appearing for the respondent.

6. In identical matters, in W.P.No.8202 of 2014, this Court directed the respondent therein to release the goods on payment of tax by the petitioner.

7. In such view of the matter, without going into the correctness or otherwise of the orders impugned in this Writ Petition, the respondent is directed to quantify the tax and compounding fee payable by the petitioner. On such quantification, the petitioner is directed to remit one time tax and on remitting such amount, the goods which have been detained, shall forthwith be released. It is made clear that the petitioner firm has to subject themselves to the adjudication proceedings that may be initiated by the respondent.

8. Accordingly the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar
Dated:12.3.15

True Copy

Sub Assistant Registrar

To

The Assistant Commissioner [CT],
Enforcement,Tuticorin.

+1 cc to Mr.R.Hemalatha, Advocate,SR.8315

+1 cc to Spl.Government Pleader,SR.8748.

ctk(co)
krd 13/3

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and
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