

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5582 of 2015

and

M.P.No.1 of 2015

M/s.Trac Fijico Air Systems LLP,
represented by its Authorised Signatory,
Sebastain.P,
No.1, 17th Street, 5th Avenue,
Ashok Nagar, Chennai - 600 083. ... Petitioner

vs.

1.The Check Post Officer,
Deputy Commercial Tax Officer,
Thoppur (Inward),
Kurinjinagar,
Dharmapuri District.

2.The Assistant Commissioner (CT),
Ashok Nagar Assessment Circle,
No.40, Ramasamy Road,
K.K.Nagar, Chennai - 600 078. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent in Ref.3202/2014-15 (O.R.No.11495/2014-15) dated 26.09.2014 and the consequential order of the second respondent in Rc.No.5/2015/A3 dated 27.01.2015 and quash the same as ultravires of the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.Manoharan Sundaram
Additional Government Pleader (T)

O R D E R

The petitioner seeks to quash the order of the first respondent passed in Ref.3202/2014-15 (O.R.No.11495/2014-15) dated 26.09.2014 and the consequential order of the second respondent passed in Rc.No.5/2015/A3 dated 27.01.2015.

2. Heard learned counsel for the petitioner and learned Additional Government Pleader (T).

3. The petitioner has raised two grounds in the Writ Petition. The first one is that the Check Post Officer is not the assessing officer and he has no jurisdiction to compound the offence on receiving the amount. The next contention raised by the petitioner is that unless otherwise the petitioner agrees for compounding, the authority concerned cannot compound the offence and pass orders.

4. These two factual and legal submissions are not refuted by the respondents.

In view of the aforesaid two submissions, without going into the merits of the matter, this Court allows this revision and sets aside the impugned order. The disposal of the Writ Petition is not a bar for the authority concerned to proceed against the petitioner, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Check Post Officer,
Deputy Commercial Tax Officer,
Thoppur (Inward),
Kurinjinagar,
Dharmapuri District.

2.The Assistant Commissioner (CT),
Ashok Nagar Assessment Circle,
No.40, Ramasamy Road,
K.K.Nagar, Chennai - 600 078.

1 cc to Mr.V.Sundareswaran ,Advocate, SR.No.11676
1 cc to Spl. Government Pleader, (Taxes)Sr.No.11972

W.P.No.5582 of 2015

gr(co)
pmk.20.3.2015