BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Writ Petition (MD)Nos.11567 to 11570 of 2015

Sunshine Tiles
rep.by its Partner Mr.Pethanan
2/97, West Street, Maravar Perungudi
M.Reddiapatti (Via), Aruppukottai (Tk)
Virudhunagar District. ... Petitioner in all WPs.

Vs.

1.The Commercial Tax Officer (Enforcement) (Roving squad)
Tuticorin, Tuticorin District.

2.The Assistant Commissioner,
Enforcement Wing,
Commercial Taxes Department,
Tuticorin, Tuticorin District.

3.The Assistant Commissioner of Commercial Taxes,
Aruppukottai Assessment Circle,
Virudhunagar District. ... Respondents in all WPs.

Writ petition Nos.11567 to 1169 of 2015 filed under Article 226 of the Constitution of India, praying to pass an order in the nature of Writ of Certiorarified Mandamus by calling for the entire records pertaining to the impugned goods detention notice in GD Nos. 11/2014-2015, dated 05.12.2014, 16/2014-2015 dated 17.12.2014 and 18/2014-2015 dated 19.12.2015 on the files of the 1st and 2nd respondents and quash the same and direct the respondents to release the detained goods.

Writ petition No.11570 of 2015 filed under Article 226 of the Constitution of India, praying to pass an order in the nature of Writ, order or direction in the nature of writ, quash the impugned compounding proceedings initiated by the 2nd respondent in A1/1292 dated 17.02.2015 and passed such other orders.

For Petitioner : Mr.A.Saravanan (All WPs.)
For Respondents : Mr.R.Karthikeyan Addl.Govt.Pleader (All WPs.)

COMMON ORDER

The petitioners have come up with the above writ petitions challenging the goods detention notice and for release of the goods.

2.Heard the learned counsel appearing for the petitioner. Mr.R.Karthikeyam, learned Additional Government Pleader takes notice for the respondents.

3.The petitioner-company is carrying on the business of trading in ceramic tiles, vitrified tiles, glazed tiles and polished granites. The petitioner is the registered dealer under the Tamil Nadu Value Added Tax Act, 2006. The petitioner made inter-state purchases from Gujarat State against Form 'Ç' and transported the goods through sea via Tuticorin Port. Even before the goods could be cleared at the Port, the first respondent herein has detained four containers of goods by issuing Goods Detention Notices bearing Nos.11/2014-2015, dated 05.12.2014, 16/2014-2015 dated 17.12.2014 and 18/2014-2015 dated 19.12.2015. The first respondent has stated that the goods were detained due to alleged "defective document (or) defraud in tax payment" without notifying any defect or default in payment during the movement of interstate transaction. The first respondent also refused to consider the documents produced by the petitioner and orally insisted the petitioner to pay tax of Rs.2,74,525/- for the four consignments and also an unexplained sum of Rs.1,08,66,136/-. The petitioner has approached the Assistant Commissioner Enforcement, the second respondent herein seeking release of the detained goods. The second respondent also reiterated the demand made by the first respondent. Now the goods of the petitioner are locked up in the dockyard of M/s.Shreyas Relay Systems and under the control of the respondents. Meanwhile, the Assistant Commissioner (Enforcement), the second respondent herein has issued a single impugned compounding order in the guise of notice in A1/1292/2014 dated 17.02.2015, wherein it is stated that proposal for the evasion of tax of Rs.1,08,66,136/- has been evolved and penalty of Rs.1,62,99,204/- has been levied by the Enforcement Wing, Tirunelveli. Hence, the petitioner has come forward with the present Writ Petitions.

4. Today, when the matter was taken up for consideration, the learned counsel appearing for the petitioner submitted that this Court in series of writ petitions has directed the goods to be released on payment of tax component. The learned counsel for the petitioner has also produced a copy of the order passed by this Court in similar matter in W.P.No.14400 of 2015 (M/s.Dynamic Products, rep. by its Authorised Signatory R.Vasantharaj Vs. The Deputy Commercial Tax Officer, Roving Squad - IV, Enforcement (North) Greams Road, Chennai), dated 13.05.2015, wherein this Court has given a direction to the respondent therein to quantify the tax component alone and further, directed to release the goods on payment of the tax component.

5. It is stated that the tax component is yet to be quantified.

6. Hence, these Writ Petitions are disposed of with a direction to the respondents to quantify the tax component alone within a period of three days from the date of receipt of a copy of this order and intimate the same to the petitioner. On payment of the tax component, the goods shall be released. If the respondents have any other claims, they shall await adjudication. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Commercial Tax Officer (Enforcement) (Roving squad)
Tuticorin, Tuticorin District.

2.The Assistant Commissioner,
Enforcement Wing,
Commercial Taxes Department,
Tuticorin, Tuticorin District.

3.The Assistant Commissioner of Commercial Taxes,
Aruppukottai Assessment Circle,
Virudhunagar District.

+4cc to M/S.A.Saravanan, Advocate in SR.No 44846

TS/10.08.2015/3P - 8C AMF/SAR -II

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