IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.12811 of 2016 and
W.M.P.No.11209 of 2016

M/s.Kothari Impex,
rep by its Proprietor,
No.203, Sukrawarpettai,
Coimbatore. ... Petitioner

Vs.

1. The Deputy Commissioner (CT),
   Enforcement (Central),
   Chennai - 600 006.

2. The Deputy Commercial Tax Officer (CT),
   Roving Squad-III, Enforcement (Central),
   Chennai - 600 006. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent in G.D.No.1001/2016-17/R.S.III (C) dated 02.04.2016 and to quash the same and further direct the respondents to release the consignment detained on 02.04.2016.

For Petitioner : Mrs.C.Rekha Kumari
For Respondents : Mr.S.Kanmani Annamalai,
Addl Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent dated 02.04.2016 and to quash the same and to further direct the respondents to release the consignment detained on 02.04.2016.

2.It is the case of the petitioner that it is a registered Dealer and an Assessee on the file of the Commercial Tax Officer, RG Street Assessment Circle, Coimbatore. The petitioner imported photo-frame from foreign country and it was cleared from Harbour by the Clearing Agent and was moving from Port to the premises of the petitioner in Coimbatore. The goods were duly covered by the prescribed documents such as Bill of Entry and Form-KK issued by the Clearing Agent. There was no sale or purchase activities, as the goods were moving from Port to the petitioner's premises. The 2nd respondent detained the goods on the ground that there is some difference in actual import figures with that of the figures reported in the monthly returns filed for earlier month. By the circular issued by the Commissioner of the Commercial Taxes, it was clarified that the Check Post Authorities shall not detain the consignment on the ground of incorrectness of the monthly returns and cause undue hardship to the Dealer. The correctness of the returns have to be verified by the Assessing Officer and the duty of the Check Post Authorities is just to verify whether the consignment is accompanied by the documentary evidences. In the case on hand, though the petitioner had all documents, the 2nd respondent had detained the consignment.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that on payment of One Time Tax to be quantified by the 2nd respondent, the 2nd respondent may be directed to release the consignment.

4.Having regard to the submissions made by the learned counsel on either side, since the petitioner is willing to pay the One Time Tax to be quantified, the impugned order is liable to be set aside. Accordingly, the impugned order dated 02.04.2016 is set aside. The respondents are directed to quantify the One Time Tax amount payable by the petitioner within two days from the date of receipt of a copy of this order and on payment of the said amount by the petitioner, the respondents are directed to release the consignment.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.
va

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

1.The Deputy Commissioner (CT),
Enforcement (Central),
Chennai - 600 006.

2.The Deputy Commercial Tax Officer (CT),
Roving Squad-III, Enforcement (Central),
Chennai - 600 006.

+ 1 cc to M/s.C.Rekha Kumari, Advocate SR 21452

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