IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.13456 of 2016
and
W.M.P.No.11811 of 2016

M/s. EID Party (India) Ltd.,
rep. by its Authorized Signatory,
Mr.Y.Sathyan. ...Petitioner

Vs.

1) The Deputy Commissioner (CT)-I,
Large Tax Payers Unit, "Dugar Towers"
5th Floor, No.234, (Old No.123),
Marshall Road, Egmore, Chennai - 600008.

2) The Joint Commissioner (CT)
Large Tax Payers Unit, "Dugar Towers"
5th Floor, No.234, (Old No.123),
Marshall Road, Egmore, Chennai - 600008.

3) The Deputy Commercial Tax Officer,
Checkpost, Hosur (OUT). ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the first respondent in TIN: 33080100006/2014-15, dated 08.10.2015 and the consequential order of the second respondent in RC.No.3489/2015/A4, dated 03.03.2016, and to quash the same and further, to direct the first respondent to consider all the documents (including the Form C to be filed) that were enclosed with objections dated 14.09.2015, to prove the movement of goods to other states and thereafter, pass orders in accordance with law after giving an opportunity of being heard as envisaged under Section 22 (4) of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.V.Hari Babu
Additional Government Pleader

ORDER

The petitioner, who is a registered dealer, under the provisions of Tamil Nadu Value Added Act, 2006, has filed this Writ Petition, challenging the proceedings of the first respondent, dated 08.10.2015, in and by which, the petitioner has been assessed to tax on the ground that the goods, for which, e-Transit Passes were issued to the petitioner, had not crossed any of the border Check Posts, therefore, they were presumed to be sold in the State of Tamil Nadu.

2. It is seen that, before the impugned order came to be passed, a show cause notice, dated 28.04.2015, was issued to the petitioner, containing the said allegation, to which, the petitioner submitted their reply/explanation along with proof to show that the goods have reached Uttarkhand. There were three e-Transit Passes, which were the subject matter of the notice, dated 28.04.2015, and the Authority proposes to levy tax and penalty for all the three e-Transit Passes. The petitioner's explanation found favour with the first respondent, in respect of two e-Transit Passes, but in respect of one Transit Pass, the Authority has stated that the proof could not be accepted.

3. According to the petitioner, they had proof to show that the goods have been received by M/s.Jyothy Laboratories Ltd., Uttarkhand, and there was invoice and other documents produced by the petitioner, however, it appears that the Check Post Authority had failed to enter the e-Transit Pass in the computer, and consequently, it appears that the first respondent rejected the explanation given by the petitioner, in respect of one of the e-Transit Passes. However, in the impugned order, the first respondent does not assign any reason for sating as to why the proof could not be accepted. Unfortunately, the Revisional Authority, before whom, the petitioner filed Revision, misdirected itself, in rejecting the Revision Petition as not maintainable. Be that as it may, when the Assessing Authority assessed the petitioner to tax on the basis that the documents produced by them are not acceptable, then, the Assessing Authority is bound to give reason as to how the documents are not acceptable. Therefore, in the absence of any reasons assigned in the impugned order, it has to be held that the impugned order is devoid of merits, and in violation of principles of natural justice.

4. For the foregoing reasons, the Writ Petition is allowed, the impugned order is set aside, and the matter is remanded to the first respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, and take into consideration the documents to be produced by the petitioner on

cross verification through officials channel, and thereafter, pass a reasoned order, on merits, and in accordance with law. Consequently, connected W.M.P. is closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sd

To

1. The Deputy Commissioner (CT)-I,
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3. The Deputy Commercial Tax Officer,
Checkpost, Hosur (OUT).

1 cc to Special Government Pleader (Taxes), Sr. 29938
1 cc to Mr.V. Sundareswaran, Advocate, Sr. 29730

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