

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:01.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17493 of 2016

&

WMP No.14949 of 2016

M/s.Sun Bright Granite
Partnership firm rep. By its
Managing Director, Chennai-85.

..PETITIONER

Vs.

The Commercial Tax Officer
Roving Squad-1
Enforcement North
Chennai 600 006.

..RESPONDENT

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified mandamus to call for the records of the respondent herein relating to the Goods Detention Notice bearing G.D.No.10/16-17/2016-17 dated 07.04.2016 and the Release Order bearing Goods Release Order No.10/2016-17 dated 09.04.2016 and quash the same and direct the respondent herein to forthwith refund the sum of Rs.4,05,008/- (Rupees Four Lakhs Five Thousand and eight only) to the petitioner herein along with interest at 24% p.a.

For Petitioner : Mr.A.R.L.Sundaresan
Sr.Counsel
for Ms.A.L..Ganthimathi

For Respondent : Mr.S.Kanmani Annamalai
Addl.Govt.Pleader

O R D E R

Heard Mr.A.R.L.Sundaresan, learned Senior Counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of the respondent and with the consent of learned counsel appearing on either side, this writ petition is taken up for final disposal.

2.The petitioner is aggrieved by the Goods Detention Notice dated 07.04.2016, by which the respondent-Officer has detained the petitioner's goods by raising certain queries.

The petitioner submitted a representation on 07.04.2016, stating that the goods are not for sale and it is only for their own use and enclosed the copies of the documents in support of the genuineness of the transaction. In the said representation, the petitioner has undertaken to pay One Time Sales Tax under protest, to release their container. On receipt of the same, the respondent passed a Release Order, directing the petitioner to pay the One Time Tax of Rs.4,05,008/- and pursuant to the payment, the goods have been released. The petitioner is now aggrieved by the action of the respondent in collecting the said amount as one time tax.

3.The learned Additional Government Pleader appearing for the respondent submits that since the impugned proceedings is only an order passed by the respondent, the Detention Officer, the petitioner has an effective alternate remedy by filing a Revision Petition before the Revisional Authority of the concerned Region and if such representation is filed along with the Detention Notice and the Release Order dated 09.04.2016, the Revisional Authority concerned may be directed to examine the case of the petitioner and pass appropriate orders on merits and in accordance with law.

4.The learned Senior counsel appearing for the petitioner on instructions submitted that the petitioner is ready and willing to approach the Revisional Authority and prayed that the said authority may be directed to consider the petitioner's case, after perusal of the documents that may be produced by the petitioner before the Revisional Authority.

5.In the light of the above, the petitioner is directed to file a Revision Petition along with the copy of this order before the concerned Revisional authority, who on receipt of the same, shall consider the Revision Petition on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, peruse the documents and pass a speaking order, within a period of three weeks from the date of receipt of the Revision Petition. It is made clear that since the petitioner has remitted the One Time Tax under protest, the said payment shall abide by the orders that may be passed by the Revisional Authority.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is dismissed.
rpa

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

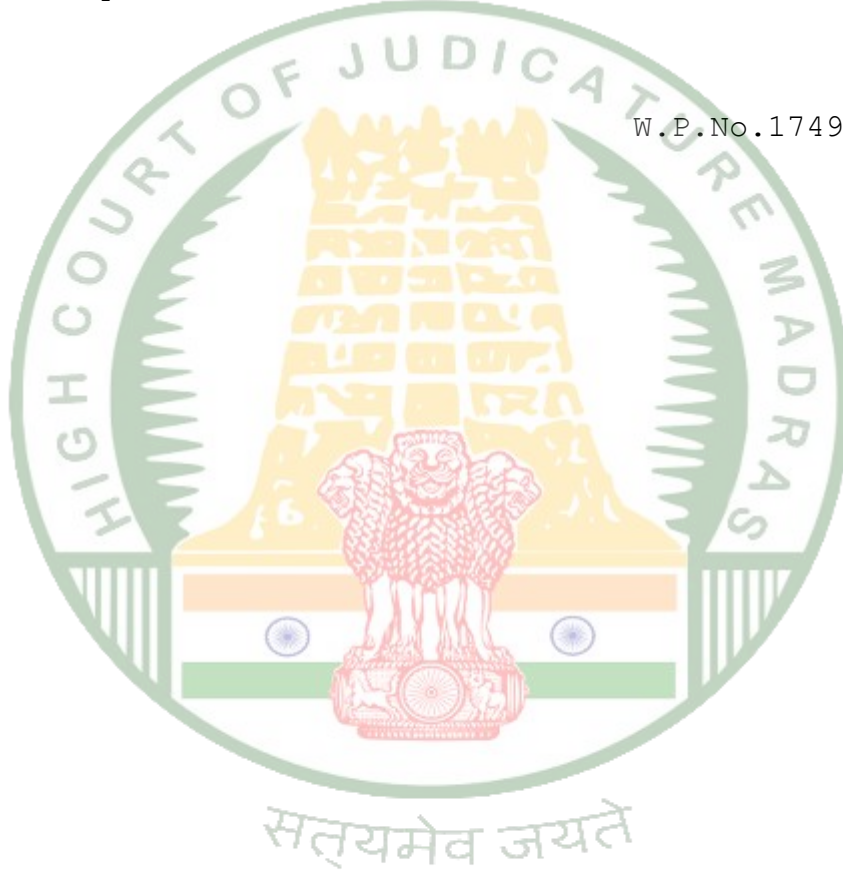
The Commercial Tax Officer
Roving Squard-1
Enforcement North
Chennai 600 006.

+ 1 cc to Ms.A.L.Ganthimathi, Advocate Sr 29381

+ 1 cc to The Spl.Govt.Pleader (Taxes) Hct, Mds-104. Sr 29012

KR/9/6/16

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