IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.17037 of 2014
and
M.P.No.2 of 2014

Tvl.Swarnagiri Industrial Company,
rep.by its Proprietor,
Mr.Lalit Jain
No.01, Tagore Street,
Krishnapuram Ambatur,
Chennai-53 ... Petitioner

vs.

The Deputy Commercial Tax Officer,
Roving Squad,
Odanthurai,
Coimbatore ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records of the respondent in GDR No.16865/2014-15 dated 24.6.2014 and quash the same and further direct the respondent to release the consignment detained on 24.06.2014.

For Petitioner : Ms.C.Rekha Kumari

For Respondent : Mr.Manokaran Sundaram,A.G.P.

ORDER

Heard Ms.C.Rekha Kumari, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondent and with the consent of either parties, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Act, 2006 and the Central Sales Tax Act, 1956, on the file of the Assistant Commissioner(CT), Koyambedu Assessment Circle, Chennai. In this writ petition, the petitioner has challenged the show cause notice for composition of offence.

3. The first ground raised by the petitioner is regarding the jurisdiction of the respondent to issue such a notice. It is submitted that the respondent is not empowered to issue such a notice and if at all, the matter has to be considered, it can be considered only by the assessing officer.

4. After elaborately hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and perusing the written instructions given by the respondent to the Special Government Pleader, dated 19.8.2014, this Court is of the view that the impugned proceedings being only a show cause notice, the proper course to be adopted by the petitioner is to submit their objections to the notice and at this stage, the question of quashing the notice does not arise.

5. Admittedly the goods have already been released subject to payment of one time tax, pursuant to the interim order passed by this Court, on 30.6.2016. Accordingly, the writ petition is disposed of giving liberty to the petitioner to file their objections to the impugned notice within a period of 15 days from the date of receipt of a copy of this order, after which, the respondent shall consider the objections and pass a speaking order on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. The petitioner is entitled to canvass all legal and factual issues in the objections to be filed in terms of the above direction.

The writ petition is accordingly disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Roving Squad,
Odanthurai,
coimbatore.

+1cc to Special Government Pleader Sr.42886
+1cc to Mr.C.Rekhakumari, Advocate Sr.42819
+1cc to Special Government Pleader Sr.42390

W.P.No.17037 of 2014

nr[co]
srg 31/08/2016