IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20369 of 2016

M/s.V.J.Trading
Rep. by its Proprietor
D.Venkatesan
No.441/A, Kundrathur to Mangadu Main Road
Kollacherri, Kundrathur
Chennai .. Petitioner

Vs.

1. The Commercial Tax Officer (Roving Squad)
Enforcement, Villupuram

2. The Assistant Commissioner (CT)
Sriperumbudur Assessment Circle
Sriperumbudur
Kancheepuram District .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the first respondent in Goods Detention Notice No.1138, dated 10.06.2016 and the consequential Demand Notice in GD No.1138/2016-17 dated 10.06.2016 and quash the same as illegal, arbitrary and against the provisions of the Act and further direct the first respondent to release the Goods along with the vehicle No.TN52C9896 which was detained at Vikravandi Toll Gate pursuant to the above said Goods Detention Notice dated 10.06.2016.

For Petitioner : Mr.K.Soundararajan

For Respondents : Mr.Manokaran Sundaram
Additional Government Pleader

O R D E R

Heard Mr.K.Soundararajan, learned counsel for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader for the respondents. With the consent of the learned counsel appearing on either side, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the Goods Detention Notice as well as a notice issued to the petitioner demanding tax and compounding fee.

3. The Learned counsel for the petitioner has drawn the attention of this Court to the invoices as well as the Goods Detention Notice and submitted that the first respondent himself has admitted that the goods are machineries and therefore, the question of levy of tax at 14.5% does not arise.

4. However, this issue cannot be adjudicated at this juncture, that too, in a writ petition and the petitioner has to necessarily avail the revisional remedy. However, in the impugned notice dated 10.06.2016, the respondent has added Lorry Freight and Gross Profit at 20% for the purpose of release of the goods. This should not have been done by the check post officer.

5. Accordingly, there will be a direction to the petitioner to pay one time tax without prejudice to his rights and also file a revision against the impugned order. The amount of tax payable on the total value of the goods shall be less the Lorry Freight and Gross Profit at 20%. After deducting this amount, the total amount payable would be Rs.18,15,600/- and tax at 14.5% would be Rs.2,63,262/-. As and when the petitioner remits the one time tax of Rs.2,63,262/-, the respondent shall forthwith release the goods in question. It is made clear that the payment is made without prejudice to the rights of the petitioner and the petitioner is at liberty to file revision as against the demand made and contest all issues including the rate of tax.

The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

gpa

To
1. The Commercial Tax Officer (Roving Squad)
Enforcement, Villupuram

2. The Assistant Commissioner (CT)
Sriperumbudur Assessment Circle
Sriperumbudur
Kancheepuram District

3. The Section Officer,
Current Section,
High corut, Madras.

1 cc to Mr.K.Soundararajan, Advocate, sr.33175

W.P.No.20369 of 2016

sr co
kra 16.06.2016