In the High Court of Judicature at Madras

Dated : 18.8.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.28780 of 2016 & WMP.No.24824 of 2016

Tvl.Naalvaar Traders, rep.
by its Proprietor M.Ganesh ...Petitioner

Vs

1.The Commercial Tax Officer (Enf.),
Roving Squad, Namakkal.

2.The Assistant Commissioner (CT),
Arisipalayam Assessment Circle,
Salem. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the first respondent in G.D.R.No.2036/2016-17 dated 11.8.2016 and quash the same as being without jurisdiction and authority of law.

For Petitioner : Mr.R.Senniappan
For Respondents : Mrs.Vasudha Thiagarajan, AGP

ORDER

Mrs.Vasudha Thiagarajan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged a goods detention notice issued by the respondent detaining the goods as well as vehicle, which was transporting refined castor oil from Rajasthan.

3. Two reasons have been given in the impugned goods detention notice stating that the petitioner has not filed the returns for the year 2016-17 and that the vehicle did not enter the State of Tamil Nadu within the time permitted in the transit pass and also that the transit pass was not shown in the previous check post.

4. Learned counsel for the petitioner submits that the petitioner has been filing e-returns regularly and it is incorrect to state that they have not filed returns. So far as the transit pass is concerned, it is submitted that the delay is on account of the fact that the on the eve of the Independence Day, there was extensive checking, as a result of which, the delay had occasioned.

5. These issues are all factual issues, which the petitioner has to agitate before the Competent Authority, who is the Revisional Authority under the provisions of the Tamil Nadu Value Added Tax Act, 2006. Therefore, these issues cannot be adjudicated in this writ petition.

6. However, since the goods and the vehicle had been detained, the writ petition is disposed of with a direction to the first respondent to compute the one time tax on the goods within 24 hours from the receipt of a copy of this order and such tax shall be computed on the value of the goods as mentioned in the invoice. The first respondent shall not add the freight

charges or gross profit for arriving at the value. In other words, the value of the goods as mentioned in the invoice, being Rs.18,99,000/-, shall be taken as the value and one time tax shall be computed on the said value. On such computation and on the petitioner paying the one time tax, the goods shall be released forthwith and thereafter, the petitioner is at liberty to file a revision before the Revisional Authority raising all issues, which shall be considered on merits and in accordance with law. No costs. Consequently, the above MP is closed.

18.8.2016

Internet : Yes

To
1.The Commercial Tax Officer (Enf.), Roving Squad, Namakkal.
2.The Assistant Commissioner (CT), Arisipalayam Assessment Circle, Salem.

RS

T.S.SIVAGNANAM,J
RS

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