IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2016

CORAM

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

WP.Nos.29142 and 29143 of 2016
and
W.M.P.Nos.25183 to 25186 of 2016

Tvl. Sri Venkataramana Cotton Mills,
rep. By M.Nagasudarshan,
Manager/Authorized Representative,
D.No.30/497, Vivekananda Street, Bogguline
Nandyal Taluk Kurnool District,
Andhra Pradesh - 518 502.
.... Petitioner in both W.Ps.

Versus

The Commercial Tax Officer (Enforcement)
Roving Squad, Vellore, Tamil Nadu.
... Respondent in both W.Ps.

Prayer in both Writ petitions

Writ Petitons filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent, comprised in impugned goods detention notice Nos.557 and 556/2016-17 respectively, dated 17.08.2016, on the file of the respondent herein and to quash the same, and to direct the respondent to release the vehicle along with the detained goods.

For Petitioner : Mr.T.Shanmugam
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard Mr.T.Shanmugam, learned counsel for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of the respondent. Since the issue involved in both the Writ Petitions, the parties are one and the same, with consent of the learned counsel on either side, the Writ Petitions are taken up for final disposal.

2. The petitioner has filed these Writ Petitions, challenging the goods detention notices, issued by the respondent, detaining the goods, which are stated to have been moving from the State of Andhra Pradesh.

3. The learned counsel appearing for the petitioner would contend that, though the impugned notices are totally without jurisdiction, and issued on a gross misconception of law, considering the fact that the goods are liable for damage, they would submit that they are ready to pay one time tax, so as to enable them to get the goods released.

4. The learned Additional Government Pleader appearing for the respondent pointed out that the petitioner is a dealer, registered in the State of Andhra Pradesh, under the provisions of Andhra Pradesh Value Added Tax Act, and the deponent to the affidavits, is the person, who is residing in Coimbatore, and he is described as Manager/Proprietor. Therefore, this Court may consider imposing further condition, so as to secure the interest of the revenue, with regard to the claim for compounding fee.

5. In the light of the above, there will be a direction to the respondent to quantify the one time tax along with compounding fee, and intimate the same to the petitioner within 24 hours from the date of receipt of a copy of this order. On such intimation being made, the petitioner is directed to pay the onetime tax and furnish a bank guarantee for 15% of the compounding fee, in each case, as determined by the respondent, and on compliance of both the conditions, the goods shall be forthwith released. Thereafter, the petitioner is directed to file a Revision Petition before the concerned Revisional Authority, who shall examine the contentions raised by the petitioner as regards its tenability and acceptability.

6. With the above directions, the Writ Petitions are disposed of. No costs. Consequently, connected W.M.Ps. are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer (Enforcement)
Roving Squad, Vellore, Tamil Nadu.

+2 cc's to Mr.T.Shanmugam, advocate,sr.47466.
+ 1 CC to Spl. G.P.[Taxes], SR NO 47545[22.8]

scd(co)
krd 19/8

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