IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29849 of 2016
&
WMP.No.25844 of 2016

M/s.Vizag Exports,
Rep. By its Manager Mr.K.Kathiravan,
No.5/108A, Kannumamoodu,
Vilavancode, Kanyakumari District. ... Petitioner

Vs.

1.The Deputy Commissioner Tax Officer,
Check Post Officer,
Puzhal Check Post,
Chennai - 600 066.

2.The Assistant Commissioner (CT),
Kuzhithurai Assessment Circle,
Kanyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent in G.D.No.4163/2016-2017, dated 22.08.2016 and quash the same as issued without authority of law and further direct the first respondent to release the detained consignment of imported Raw cashew nuts in Shell to the petitioner without imposing any condition of payment of one time tax or two time of tax as compounding fee.

For Petitioner : Mr.P.Rajkumar

For Respondents: Ms.Vasudha Thiagarajan, AGP

ORDER

Heard Mr.P.RajKumar, learned counsel for the petitioner and Ms.Vasudha Thiagarajan, learned Additional Government Pleader, who accepts notice for the respondents and with their consent, the writ petition itself is taken up for disposal.

2. I have perused the averments made in the affidavit filed in support of the writ petition as well as the written instruction given by Mr.G.Sadasivampillai, Commercial Tax Officer, Puzhal Check Post, Chennai, dated 29.08.2016.

3. The goods have been detained by the respondent for verification as the goods were moving to Andhra Pradesh instead of Kollam, Kerala. The petitioner's case is that the goods were moving to the factory at Andhra Pradesh. The first respondent in the written instruction has annexed certain documents and one of the documents is the deed of Reconstitution of Partnership dated 01.04.2016, from which, it is seen that the petitioner herein has decided to shift the place of business from Narsipatnam, Vizag, to No.21, Prasanthi Nagar, Mangadu P.O., Kollam, Kerala, for the ease of doing business and administrative convenience. In the said deed of Reconstitution, one of the partners, namely, Mr.Rajagopal C.T. has expressed his willingness to retire from the partnership.

4. In view of such situation, learned counsel for the petitioner submitted that the petitioner is ready and willing to pay one time tax as quantified by the respondent and the goods may be released.

5. Considering the facts and circumstances of the case and the written instruction given by the respondent, the petitioner is liable to pay one time tax. Accordingly, the petitioner is directed to remit the one time tax to the 2nd respondent and on such remittance, the goods shall be forthwith released. Within a period of two weeks thereafter, the petitioner is directed to file revision petition before the revisional authority raising all other points and questioning the compounding fee.

6. In fine, the writ petition is disposed of. No Costs. WMP.No.25844 of 2016 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Deputy Commissioner Tax Officer,
Check Post Officer,
Puzhal Check Post,
Chennai - 600 066.

2.The Assistant Commissioner (CT),
Kuzhithurai Assessment Circle,
Kanyakumari District.

+1 cc to M/s.P.Rajkumar Advocate sr 48903
+1 cc to Special Government Pleader Taxes sr 49113

W.P.No.29849 of 2016

aa30/08/2016