IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **09.09.2016**

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.31196 of 2016 &
W.M.P.No.25807 of 2016

M/s Shree R.S.Trading Co.,
rep. by its Proprietor
Mr.Shreechand Jain .. Petitioner

..Vs..

1.The Commercial Tax Officer
Roving Squad IV
Enforcement (Central)
Greams Road, Chennai 600 006.

2.The Assistant Commissioner (CT)
Pedunaikenpet (South) Assessment Circle
Chennai. .. Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in G.D.No.1567/2016-2017 dated 2.9.2016 and quash the same as issued without authority of law and further direct the first respondent to release the detained consignment of Lighting Fixtures to the petitioner without imposing any condition of payment of one time tax or two time tax as compounding fee.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.K.Venkatesh
Government Advocate

****

ORDER

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondents. By consent, the writ petition itself is taken up for final disposal.

2.The petitioner has come forward with this Writ Petition, challenging the compounding notice issued by the first respondent dated 02.09.2016. The reasons for detention of the goods are three fold viz. (i) the goods were unloaded and re-loaded to another vehicle, intended to be sent to another State without raising any sale deed; (ii) that the petitioner has a registered godown at S.N.Chetty Street, Chennai, however, they were doing loading operations in a different place and (iii) at the time of lorry check, the dealer has not produced the sale of invoice and the transfer of the vehicle was also not having invoices.

3.It is seen that the first respondent had issued a Goods Detention Notice dated 30.08.2016, pursuant to which the petitioner submitted a representation on the same day enclosing the Sale Bills, etc., and while passing the impugned Compounding Notice, the respondent has stated that for certain reasons, the Sale Bills and Bills of Entry produced are not acceptable. This would *prima facie* show that the Sale Bills were produced before the first respondent by the petitioner. Copies of the Tax Invoices have been produced before this Court which shows that the goods are to be sent to a party at Firozabad, and the rate of tax that the petitioner is liable to pay is at 2%, as it is an Inter-State Sale.

4.Considering the documents placed before this Court, this Court is of the view that the genuity of the transactions cannot be doubted. However, for the petitioner to be entitled to get the release of goods, the petitioner should pay the tax at the rate of 2% on the value of the goods i.e. calculated without adding the duty, clearance charges, gross profit etc., or in other words, 2% CST payable shall be computed based upon the value of the goods as contained in the Tax Invoice raised by the petitioner. On such remittance, the goods in question shall forthwith be released.

5.In order to ensure that the goods reach the party at Firozabad, the petitioner is directed to produce C-Forms from the purchasing dealer and the learned counsel for the petitioner would submit that minimum 25 days is required to produce the C-Forms from the purchasing dealer at Firozabad.

6.In the light of the above, the petitioner is directed to pay the CST at the rate of 2% on the value of the goods as mentioned in the Tax Invoice and on such remittance, the goods shall forthwith be released, within a period of six weeks from today. The petitioner shall produce the C-Forms before the second respondent/Assessing Officer, along with the copy to the first respondent.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

09.09.2016

rpa
Note:Issue Order copy today

To

1.The Commercial Tax Officer
Roving Squad IV
Enforcement (Central)
Greams Road, Chennai 600 006.

2.The Assistant Commissioner (CT)
Pedunaikenpet (South) Assessment Circle
Chennai.

T.S.SIVAGNANAM, J

rpa

W.P.No.31196 of 2016

09.09.2016