In the High Court of Judicature at Madras

Dated : 22.9.2016

Co ram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.33105 of 2016

M/s.Paam Commercial Private Limited, rep.by its Director ...Petitioner

Vs

The Deputy Commercial Tax Officer, Puzhal Check Post, Chennai-66. ...Respondent

PETITION 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 in his proceedings in G.D.No.4160/2016-17 dated 12.8.2016, quash the goods detention proceeding as illegal and contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 and direct the respondent to release the goods from the lorry shed.

For Petitioner : Mr.C.Bakthsiromani
For Respondent : Mr.K.Venkatesh, GA

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

2. In this writ petition, the petitioner has challenged the goods detention notice issued by the respondent.

3. When the goods were checked on 12.8.2016, while moving from Chennai to Hyderabad, at Puzhal Check Post, the goods were found to be accompanied by the following documents :

"(i) Copy of Form JJ in manual
(ii) Debit Note of M/s.EAP Infrastructures Pvt. Ltd. dated 1.7.2016 and
(iii) Tax Invoice of M/s.Paam Commercial Pvt. Ltd., Telungana dated 12.5.2016."

4. The respondent detained the goods suspecting the genuineness of the transaction on the following four points :

> "(1) Confirming purchase return of Red Meranti Wood Finished Section in lorry (quantity of 1055.0000 cft.) in cubic feet
>
> (2) But while detaining the vehicle, it is found that Red Meranti Wood Finished Section (Door Frames) & (Door Logs) in quantity of 445 Nos. and 675 Nos. in numbers
>
> (3) The EAP Infrastructure (P) Ltd. by its purchase bill dated 12.5.2016 and on the guise of purchase return dated 1.7.2016, the dealer has created a debit note and
>
> (4) Though the sale and purchase bills are of the dates 1.7.2016, the same are moved only on 12.8.2016."

5. From the above, it is seen that there appears to be a discrepancy in the quantity and the petitioner would admit that what was transported in a single truck has been taken into two trucks and one truck already crossed the check post. These issues cannot be adjudicated in this writ petition, for which purpose, the petitioner has to approach the concerned Joint Commissioner.

6. Faced with this situation, the learned counsel for the petitioner, on instructions, submits that the petitioner is willing to pay the one time tax and that on payment of one time tax, the goods may be directed to be released.

7. In the compounding notice dated 16.8.2016, the one time tax has been computed at Rs.2,55,437/- at 14.5%. For computing the said amount, the value of the goods has been arrived at Rs.17,61,638/-, which includes gross profit at 10% and conversion charges at 10%. Therefore, this Court is of the view that the petitioner can be permitted to take the goods subject to payment of one time tax, which this Court quantifies at Rs.2,00,000/- .

8. Accordingly, the writ petition is disposed with a direction to the petitioner to pay a sum of Rs.2,00,000/- (Rupees two lakhs only) towards one time tax. On remittance of the said sum, the goods shall be released forthwith. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To
The Deputy Commercial Tax Officer, Puzhal Check Post, Chennai-66.

+1 CC to Mr. C. Bakthasiromoni, Advocate Sr.No.54085
+1 CC to Special Government Pleader, (Taxes) Sr.NO.54140

WP.No.33105 of 2016

PUR (CO)
MD : 24/09/2016