

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.36929 of 2016

M/s.Vasantha Priya Enterprises

Rep by its Proprietor Mr. Vasanth Kumar No.
27/14 Mir Madhan Ali Street Pudhupet
Chennai-600 002 .. Petitioner

..Vs..

- 1 The Deputy Commercial Tax
Officer Roving Squad Enforcement (North)
PAPJM Building 1 Greams Road
Chennai-600 006
- 2 The Commercial Tax Officer
Roving Squad Enforcement (North) PAPJM
Building 1 Greams Road
Chennai-600 006 ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to Goods Detention Notice bearing G.D.No. 602/RS II/(N)/16-17 dated 15.09.2016 an the compounding Notice bearing No.G.D.No. 602/2016-17/R.S. II dated 19.09.2016 of the respondents and quash the same with consequential direction to the second respondent to release the impounder vehicle along with the consignment.

For Petitioner : Mr.P.Haribabu

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.P.Haribabu, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondents, who is assisted by Mr.J.Murthy,

Commercial Tax Officer, Roving Squad-II, Chennai. By consent, the Writ Petition itself is taken up for final disposal.

2.The challenge in this Writ petition is to a Compounding Notice cum Detention Notice, by which the goods in question have been detained by the respondents on the ground that the petitioner has not produced the Invoice or Delivery Note in Form JJ.

3.The petitioner's case is that the very same consignment was earlier detained by the Roving Squad No.I, and without issuing any detention notice, a sum of Rupees one lakh was collected from the petitioner, vide Receipts dated 20.08.2016, bearing Receipt Nos.012993 & 0129994.

4.The contention of the petitioner is that for the very same reason, the goods have been now detained by the first respondent. On a perusal of the documents filed in the typed set of papers as well as the Original Files produced by the respondents, this Court is of the view that the petitioner has not been able to establish the fact that the present consignment which has been detained is the very same consignment, for which a sum of Rupees one lakh was collected as compounding fees by Roving Squad No.1. Thus, in the absence of any documents produced to show that both the consignments are one and the same, the petitioner's case cannot be accepted.

5.Having come to such a conclusion, the only option is to dismiss the Writ Petition and to direct the petitioner to pay one time tax. However, the learned counsel for the petitioner would plead that some concession may be granted to the petitioner and he would pay part of the one time tax as quantified by the respondent. It is further submitted that the value arrived at by the respondents for the products which are Induction Stoves at Rs.1,999/- per piece, is excessive and the market price of the induction stove is much lesser. However, it is seen that as per the tax invoice produced by the petitioner, the value given by the supplier at Delhi is Rs.1,800/- per piece.

6.Thus, considering the over all facts and circumstances of the case and taking note of the type of product which has been transported by the petitioner, there will be a direction to the petitioner to pay a sum of Rs.75,000/-, as one time tax and on remittance of the said amount, the goods in question shall forthwith be released. After the goods are released, the petitioner is directed to file a Revision Petition before the concerned Joint Commissioner by raising all contentions available to them both on facts as well as on law, within a period of two weeks, therefrom.

The Writ Petition is disposed of on the above terms.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

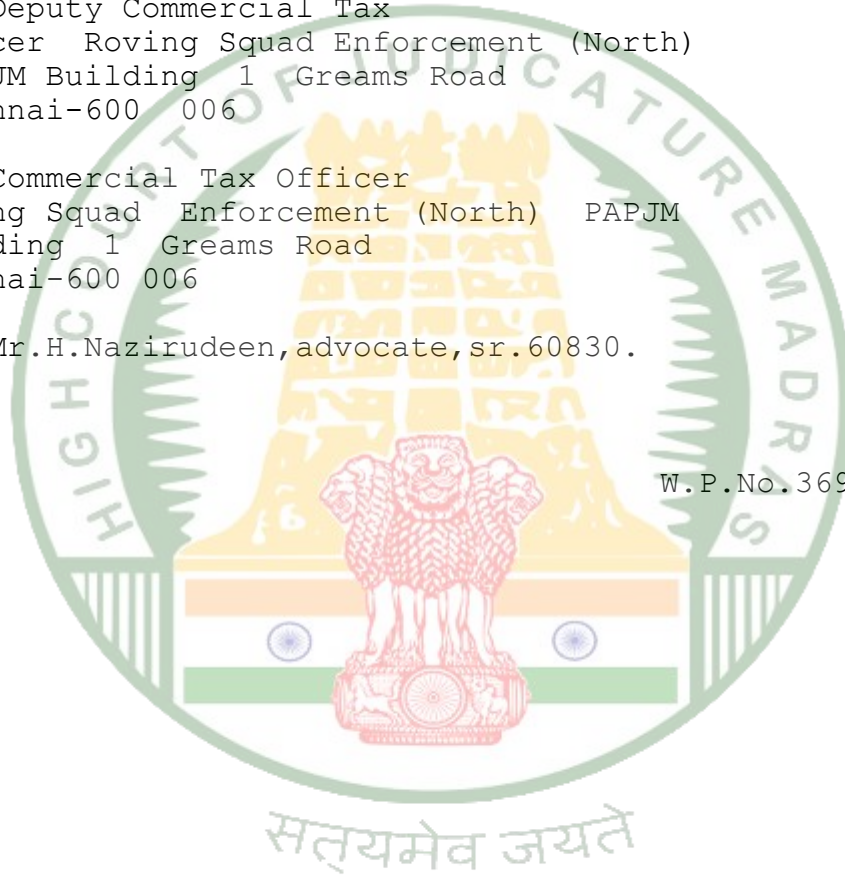
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+1 cc to Mr.H.Nazirudeen,advocate,sr.60830.

lrs(co)
krd 25/10

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