

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13323 of 2004 &
W.M.P.No.15596 of 2004

M/s.Shree Kalikambal Enterprises,
Rep. by its Proprietor,
Mr.K.Rajendran,
No.138-C.Saint Rozario Street,
Muthialpet,
Pondicherry-3. ... Petitioner

Versus

- 1.The Commercial Tax Officer,
Royapuram Assessment Circle,
Chennai.
- 2.The Deputy Commercial Tax Officer,
Group IV Enforcement (East),
PAPJM Building, Greams Road,
Chennai-6.
- 3.The Additional Deputy Commercial
Tax Officer-I,
Pondicherry. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the first respondent in D3/30/2003-2004 and quash the impugned proceedings dated 29.03.2004 on the ground that the same is issued without jurisdiction and beyond his taxing powers.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.V.Haribabu
Additional Government Pleader

O R D E R

Heard Mr.P.Rajkumar, learned counsel appearing for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader, accepting notice on behalf of respondents.

2. The petitioner-Enterprises, which is a registered dealer on the file of the third respondent under the provisions of the Pondicherry General Sales Tax Act, has filed this Writ Petition, challenging a notice issued by the Commercial Tax Officer, Royapuram Assessment Circle, Chennai, exercising his power under the provisions of the Tamil Nadu General Sales Tax Act.

3. The petitioner had imported certain goods from foreign countries and had kept the same in a godown at Royapuram. On verification, the second respondent detained the goods, by Detention Notice, dated 25.11.2002 for verification with reference to the relative records of the importer.

4. The petitioner came to adverse notice on account of the fact that during the earlier assessment year, identical imported goods were disposed of at Chennai, without taking the same to Pondicherry. As against the said Detention Notice, the petitioner approached the Tribunal, which directed the full duty to be paid by the petitioner. Aggrieved over the said order, the petitioner filed a Writ Petition before this Court, which was heard by the Hon'ble Division Bench of this Court in W.P.No.21596 of 2003, which was disposed of, by an order dated 08.06.2003, by which, the Court entertained the Writ Petition and the respondents were directed to release the goods after receiving 50% of the amount demanded towards tax from the petitioner. The petitioner complied with the said demand and the goods have reached Pondicherry and it appears that the goods have been disposed of and the same has also been assessed to tax.

5. It is to be pointed out that what is impugned in this Writ Petition is only a show-cause notice. Therefore, at this stage, the question of quashing the impugned notice would not arise, more so, when the petitioner has not complied with the conditional order granted by this Court on 05.05.2004 in W.M.P.No.15596 of 2004. Therefore, the challenge to the impugned show-cause notice has to necessarily fail. Accordingly, the Writ Petition stands dismissed.

***"However, liberty is granted to the petitioner to file reply to the impugned notice within a period of two weeks from the date of receipt of a copy of this order, enclosing all documents pertaining to the petitioner's assessment before the first respondent, relating to the subject transaction, and if the same is filed, the first respondent is directed to**

consider and pass orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. "

Sd/-
Assistant Registrar(CCC)

***Amended as per order of this court dated 02.09.2016 in WP 13323/04.**

Sd/-

**Assistant Registrar(CS VI),
15.09.2016.**

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Commercial Tax Officer,
Royapuram Assessment Circle,
Chennai.

2.The Deputy Commercial Tax Officer,
Group IV Enforcement (East),
PAPJM Building, Greams Road,
Chennai-6.

3.The Additional Deputy Commercial
Tax Officer-I,
Pondicherry.

Amended order to be
substituted for the
order already
despatched on 01.09.16

1 cc to Government Pleader, Puducherry, sr.41099

1 cc to Mr.P.Rajkumar, Advocate, sr.40693

1 cc to Special Government Pleader, (Taxes), sr.40743 * & 50297

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sv co
eu 8.8.16
kra 15.09.2016