IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.40643 of 2016 &

WMP No.34661 of 2016

M/s Vishnu Traders
rep by its Authorised Signatory
A.Vignesh .. Petitioner

..Vs..

The Check Post Officer
Deputy Commercial Tax Officer
Check Point-2, Thoppur .. Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the respondent in Goods Detention Notice No.6133/2016-2017 dated 14.11.2016 and quash the same.

For Petitioner : Mr.S.Raveekumar
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent. By consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner has come forward with this Writ Petition challenging the Goods Detention Notice dated 14.11.2016, issued by the respondent.

3.The contentions raised by the petitioner is that merely because the verification of the records reflected that the petitioner has paid a lesser amount of Central Sales Tax, the respondent cannot detain the goods. It is further submitted that the tax will be paid only if there a transaction and there is no such power under 67 of the Act and it is for the Assessing Officer to scrutinise the returns and make the assessment order. The duty entrusted to the respondent being a Check Post Officer is limited to section 67 to 71 of the Act, which are not attracted in the instant case. Therefore, it is submitted that by passing the Detention Notice, the respondent has usurped the power of the Assessing Officer. The learned counsel for the petitioner produced the copies of the Central Sales Tax Returns filed by the petitioner dated 22.0-8.2016, 9.10.2016 and 17.09.2016.

4.In any event as the petitioner is ready and willing to pay one time tax, the learned Government Advocate would submit that if the petitioner pays the one time tax, then appropriate orders may be passed by this Court.

5.In the light of the above, there will be a direction to the respondent to quantify the one time tax within 24 hours from the date of receipt of a copy of this order and as soon the petitioner remits the one time tax, the goods shall forthwith be released. After the release of the goods, the petitioner is granted two months time to challenge the action initiated by the respondent, by filing a Revision Petition before the concerned Joint Commissioner and raise all contentions which have been raised in this Writ Petition. It is made clear that payment of one time tax is subject to the outcome of the Revision to be filed by the petitioner, before the concerned Joint Commissioner.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpa

To

The Check Post Officer
Deputy Commercial Tax Officer
Check Point-2, Thoppur

+1cc to Mr.S. Raveekumar, Advocate, S.R.No.66757
+1cc to the Spl. Government Pleader (Taxes), S.R.No.67195

(CO)
md(18/11/2016)

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