In the High Court of Judicature at Madras

Dated : 22.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.40841 of 2016 & WMP.No.34850 of 2016

M/s.Electro Tech Engineers, rep.
by its Partner, Thirubhuvanai,
Puducherry-605107. ...Petitioner

Vs

1.The Deputy Commercial Tax Officer,
Enforcement/Roving Squad,
Cuddalore.

2.The Commercial Tax Officer,
Enforcement (Roving Squad),
Cuddalore.

3.The Assistant Commercial Tax Officer,
Division-1, Thirubhuvanai Assessment
Circle, Puducherry.

4.The Assistant Commissioner (CT),
Villupuram II Assessment Circle,
Villupuram District. ...Respondents

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 first respondent in G.D.No.746 dated 3.11.2016 and the consequential notice dated 5.11.2016 of the second respondent, quash the same and further direct the respondents to release the consignment detained on 3.11.2016.

For Petitioner :Ms.C.Rekha Kumari
For Respondents 1, 2 & 4 :Mr.K.Venkatesh, GA
For Respondent-3 :Mrs.Reena Iswarya, AGP

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for respondents 1, 2 and 4. Mrs.Reena Iswarya, learned Additional Government Advocate (Puducherry) accepts notice for the third respondent. Heard the learned counsel on either side. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged the goods detention notice as well as the consequential compounding notice. The reason for the first respondent detaining the goods is that the goods, which are air conditioners, were moved from Puducherry to Karaikkal and the consigner issued Form LL, but there was no entry in the Pennaiyar Bridge Check Post. Therefore, the first respondent was of the view that it is an invalid E-Transit pass and therefore, the goods were detained in R.R. & Sons Petrol Bunk, Chidambaram Bypass.

3. The learned counsel for the petitioner submits that the petitioner has got an excellent case on merits and considering the fact that the goods are to be supplied to the Oil and Natural Gas Commission immediately, the petitioner is ready and willing to pay the one time tax.

4. The learned Government Advocate appearing for respondents 1, 2 and 4 submits that if the one time tax, as quantified in the compounding notice dated 5.11.2016 namely Rs.1,19,387/-, is paid, then appropriate orders may be passed for the release of the goods.

5. Considering the above submissions, the writ petition is disposed of with a direction the petitioner to pay the one time tax as quantified by the second respondent at Rs.1,19,387/- (Rupees one lakh nineteen thousand three hundred and eighty seven only) and such payment shall be effected to the fourth respondent. On production of proof of payment to the fourth respondent, the second respondent shall release the goods in question forthwith. Thereafter, it is open to the petitioner to challenge the compounding notice by filing a review petition before the concerned Joint Commissioner and raise all the contentions available to them both on facts as well as on law. No costs. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To
1.The DCTO, Enforcement/Roving Squad, Cuddalore.

2.The CTO, Enforcement (Roving Squad), Cuddalore.

3.The ACTO, Division-1, Thirubhuvanai Assessment Circle, Puducherry.

4.The AC (CT), Villupuram II Assessment Circle, Villupuram District.

+1 cc to M/s.C.Rekhakumari,advocate,sr.67805.

rk(co)
krd 22/11

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