IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.40960 & 40961 of 2016
&
WMP.Nos.34930 & 34931 of 2016

The True Sai Works,
Rep by its Partner S.E. Palanivel ... Petitioner in both WPs

Vs

The Deputy Commercial Tax Officer-
Check Post Officer,
K.G. Chavadi (Incoming),
Coimbatore-641 105. ... Respondent in both WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the files of the respondent herein respectively in G.D.R.Nos.472/16-17 and 473/16-17, both dated 17.11.2016 and quash the same as illegal, without jurisdiction and contrary to law.

For Petitioner : Mr.N.Inbarajan

For Respondent : Mr.K.Venkatesh,
Government Advocate

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The respondent detained the goods transported by the petitioner along with the vehicles on verification of the departmental website wherein it was found that the petitioner's tax payer identification number was already cancelled with effect from 1.10.2014. In these writ petitions, the petitioner has challenged the draft compounding notices dated 17.11.2016, in and by which, the respondent demanded compounding fees.

3. On receipt of the notices, the petitioner had given an explanation stating that the old tax payer identification number has been cancelled since the firm has been reconstituted and thereafter, a new tax payer identification number has been allotted to the petitioner and the petitioner being a distributor of M/s.Tata Motors Limited, all invoices were raised with the new tax payer identification number. The present consignments were moved from Ahamadabad through one of the distributors of the said M/s.Tata Motors Limited namely M/s.TML Distribution Company Limited and that the goods were transported by sea and arrived at the Cochin Port where the goods were offloaded and transported by road. However, while raising invoices in the instant two cases alone, the old tax payer identification number has been mentioned.

4. Though such an explanation has been given by the petitioner, the respondent has not even referred to the said explanation while issuing the impugned draft compounding notices.

5. The learned counsel for the petitioner submits that since delivery is a time bound delivery, the petitioner is ready and willing to pay the one time tax as quantified in the impugned compounding notices.

6. The learned Government Advocate submits that in both the cases, if the one time tax is paid, appropriate orders may be passed.

7. Considering the above submissions, the writ petitions are disposed of with a direction to the petitioner to pay one time tax in both the cases as quantified in the impugned compounding notices dated 17.11.2016 at Rs.4,17,075/- (Rupees four lakhs seventeen thousand and seventy five only) and at Rs.5,25,806/- (Rupees five lakhs twenty five thousand eight hundred and six only) respectively. If the one time tax is paid, the respondent is directed to release the goods forthwith. Thereafter, the petitioner is granted two weeks time to file a revision before the concerned Joint Commissioner, challenging the impugned notices. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rs

To

The Deputy Commercial Tax Officer
-Check Post Officer,
K.G. Chavadi (Incoming),
Coimbatore-641 105.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.67640

W.P.Nos.40960 & 40961 of 2016
&
WMP.Nos.34930 & 34931 of 2016

RSY(CO)
CA(22/11/2016)