IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.42408/2016 & WMP.No.36293/2016

M/s.S.N.J.Synthetics Ltd.
Rep.by its Director, Block II,
1st Floor, 311/A, Road No.12, MLA Colony,
Banjara Hills, Hyderabad 500034. .. Petitioner

Vs

The Deputy Commercial Tax Officer
Pattanur Check Post, Morattandi
Villupuram District. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the file of the respondent in GD No.11/2012-13, OR No.153/2012-13 dated 10.06.2016 and quash the same illegal and contrary to the provisions of the Act and liable to be set aside.

For Petitioner : Mr.T.Pramodkumar Chopda
For Respondent : Mr.K.Venkatesh, GA

ORDER

Heard Mr.T.Pramodkumar Chopda, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing on behalf of the respondent and with the consent on either side, the writ petition is taken up for final disposal.

2 This writ petition has been filed challenged the proceedings of the respondent, which is an order calling upon the petitioner to pay tax as well as compounding fee.

3 Admittedly, as against the impugned order, the remedy available to the petitioner is to file a revision before the concerned Joint Commissioner. However, this writ petition is entertained since the petitioner has challenged the impugned proceedings is being in violation of principles of natural justice.

4 Admittedly, the petitioner was transporting certain goods which came to be detained by the respondent at Pattanoor Check Post and a detention notice dated 21.12.2012 was

issued. This was challenged by the petitioner in WP.No.298/2013 and the writ petition was disposed of by order dated 04.01.2013 wherein the petitioner has agreed to pay One Time Tax under protest and seek for release of goods in terms of section 67[4] of the Tamil Nadu Value Added Tax Act, 2006 and insofar as compounding fine is concerned, the petitioner requested this Court to allow them to pursue the remedy before authority concerned on merits by way of a revision u/s.54 of TNVAT Act. Recording the said submission, this Court directed release of goods on payment of tax as determined under the Good Detention Notice and proceed further in respect of composition fee subject to the right fo the petitioner to contest the same on merits and in accordance with law. By a separate order dated 21.12.2016, the tax as well as compounding fee was quantified and the petitioner was directed to pay the amount as quantified. Thus, as per the opportunity sought for by the petitioner, this Court, in the earlier writ petition, they should have filed a revision petition against the compounding notice dated 21.12.2012. But, they have failed to do so. Therefore, the respondent cannot be faulted for having issued the adjudication notice dated 20.04.2016, stating that the petitioner has kept quite for all these years. However, the mistake which has occurred is that when the petitioner sought for adjournment vide letter dated 06.05.2016, by a period of two months, the respondent should have either accepted the request or rejected the same and called upon the petitioner for hearing. This, having not been done, would amount to violation of principles of natural justice.

5 However, taking into consideration the conduct of the petitioner, this Court is not inclined to set aside the impugned proceedings ; but would direct the petitioner to treat the impugned proceedings as show cause notice and submit their objections to the respondent within a period of ten days from the date of receipt of a copy of this order and on receipt of the objections, the respondent shall consider the same, afford an opportunity of personal hearing and pass orders afresh on merits and in accordance with law within a period of three weeks there from.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

AP

To

The Deputy Commercial Tax Officer
Pattanur Check Post, Morattandi
Villupuram District.

+1 cc to Mr.T.Pramod Kumar chopda Advocate sr 71218
+1 cc to Special Government pleader taxes sr 71507

WP.No.42408/2016

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