IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.9174 & 9175 of 2016
and W.M.P.Nos.8182 to 8183 of 2016

M/s.Shriram SEPL Composites Pvt. Ltd.,
rep by tis Director,
74, Periyar Nagar,
Thirukatchoor Village,
Singaperumal Koil - 603 204. ... Petitioner in both W.Ps

Vs.

The Deputy Commercial Tax Officer,
Puzhal (Out) Checkpost,
Chennai - 600 006. ... Respondent in both W.Ps

Petitions 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 G.D.No.2639/2015-16 and G.D.No.2640/2015-16 and quash the proceedings dated 27.02.2016 issued therein.

For Petitioner (in both W.Ps) : Mr.R.L.Ramani, Senior Counsel for Mr.B.Raveendran

For Respondents (in both W.Ps) : Mr.S.Kanmani Annamalai, Addl Government Pleader (Tax)

COMMON ORDER

The petitioner has filed the above Writ Petitions to issue writs of certiorari to call for the records of the respondent in G.D.No.2639/2015-16 and G.D.No.2640/2015-16 and quash the proceedings dated 27.02.2016.

2.It is the case of the petitioner that the petitioner effected inter-state sales and despatched goods for use in mega power project being executed in Raipur, Chattisgarh for NTPC Limited by its contractor M/s.Zubering Engineering Company. The invoice/delivery challan accompanying the goods reveal that 2% Central Sales Tax is charged and the name, address and registration numbers of the consignor, consignee and buyer were also clearly mentioned in the invoice. However, two consignments were detained by the respondent on the ground that the turnover reported by the petitioner under TNVAT Act 2006 and the turnover reported by the other dealers in Annexure - 1 under the TNVAT Act, 2006 are different. Cross verification of turnover by verification of Annexures of the seller and buyer for the power of adjudication is a power vested in the Assessing Officer and not in respondent herein. The respondent is not the Assessing Authority and his powers are limited to only verifying whether the movement of goods is duly accompanied by requisite documents and there has been any evasion of tax and detain the goods and if there is any such defect. In the cases on hand, there is no allegation whatsoever of evasion of tax on the inter-state movement of goods or defective documents accompanying the goods.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that the impugned orders passed by the respondent can be set aside for the reason that only the Assessing Authority has the power to adjudicate the matter and not the Check Post Officer.

4.When there is absolutely no power vested with the respondent to detain the goods and the respondent had acted beyond his jurisdiction, I am of the view that the impugned orders passed by the respondent dated 27.02.2016 are liable to be set aside. Accordingly, the same are set aside. The Writ Petitions stand allowed. The respondent is directed to release the consignments forthwith on production of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

va

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

The Deputy Commercial Tax Officer,
Puzhal (Out) Checkpost,
Chennai - 600 006.

+ 1 cc to M/s.B.Raveendran, Advocate SR 15629

sns(co)
prk11/3

W.P.Nos.9174 & 9175 of 2016
and W.M.P.Nos.8182 to 8183 of 2016