IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.8117 of 2017
and
W.M.P.Nos.8888 to 8890 of 2017

M/s. Nilkamal Ltd.
rep by S.Esakkiraja,
Authorised Signatory,
Furniture Division, 3rd Floor,
No.74/4,Nelson Manickam Road,
Aminjikarai,
Chennai - 600 029. ... Petitioner

vs.

1.The Deputy Commercial Tax Officer,
Kandamangalam Check Post,
Lingareddy Palayam,
Villupuram District,
Tamil Nadu.

2.The assessing Authority/ Officer (CT),
Egmore Assessment Circle,
Taluk Office Building, Spurtank Road,
Chetpet, Chennai-31.
(R2 is amended as per order dated 10.04.2017 by KRCBJ is WMP.No.9399/2017 in WP.No.8117/2017)

3.The Assessing Authority/ Officer (CT),
Pondicherry Assessment Circle,
Pondicherry. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in G.D.No.3766/2016-17 dated 13.03.2017 quash the same and direct the 1st respondent to release the goods along with vehicle TN 72 BZ 7763 dated13.03.2017 in G.D.No.3766/2016-17 dated 13.03.2017.

For Petitioner : Mr.N.Kirubanandam
For Respondents : Mr.K.Venkatesh, Government Advocate for r1 and R2.

Mrs.Reena Iswarya,
Addl.Govt.Pleader (Pondicherry),
for R3.

ORDER

Mr.K.Venkatesh, learned Government Advocate, takes notice for the respondents 1 and 2 and Mrs.Reena Iswarya, learned Additional Government Pleader (Pondicherry) takes notice for the 3rd respondent. By consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the notice dated 13.03.2017 detaining the goods and also demanding payment of one time tax of Rs.1,02,170/- and compounding fee of Rs.2,04,340/- for the reasons set out in the said notice. According to the learned counsel for the petitioner, the petitioner is not liable to pay such tax and compounding fee and however, the 1st respondent has issued the impugned proceedings on an erroneous view of law and facts.

3. Learned Government Advocate submitted that the impugned detention notice was rightly issued by the 1st respondent in view of the reasons set out therein and therefore, it is for the petitioner to agitate before the revisional authority challenging the said proceedings.

4. Considering the above said submission made by the learned counsel appearing on either side and consider the fact that the petitioner has to agitate the matter only before the Revisional Authority, if at all the petitioner is aggrieved against such imposition of tax and compounding fee, this Court is not inclined to go into the merits of the matter to decide the present issue involved in this writ petition. Therefore, it is for the petitioner to approach the revisional authority and to file a revision. However, as the goods are detained on 11.03.2017 and this Court has considered similar cases and directed the respective petitioners therein to pay one time tax liability without prejudice to their rights, this writ petition is disposed of with a following directions.

(a) The petitioner shall pay one time tax liability of Rs.1,02,170/- by way of demand draft taken in the name of the 2nd respondent and produce the same before the 1st respondent immediately on receipt of a copy of this order.

(b) On making such payment before the 1st respondent, the vehicle and the goods of the petitioner shall be released by the 1st respondent forthwith.

(c) The 2nd respondent shall pass a final order in this matter within a period of four weeks from the date of receipt of a copy of this order.

(d) The petitioner shall file a revision before the Revisional Authority challenging the imposition of tax and compounding fee within a period of four weeks after the final order is passed by the 2nd respondent.

No costs. Consequently, connected miscellaneous petitions are closed.

11.04.2017

Sd/-
Asst. Registrar (CS II)

(*)Amended as per order of this Court Dated 10.04.2017 by KNCBT
Sd/-
Sub Asst. Registrar(CO)
dated.11.04.2017

/true copy/

Sub Asst. Registrar

To

1.The Deputy Commercial Tax Officer,
Kandamangalam Check Post,
Lingareddy Palayam,
Villupuram District,
Tamil Nadu.

Substituted the order of hereby despatched on 06.04.2017.

2.The assessing Authority/ Officer (CT),
Egmore Assessment Circle,
Taluk Office Building, Spurtank Road,
Chetpet, Chennai-31.

3.The Assessing Authority/ Officer (CT),
Pondicherry Assessment Circle,
Pondicherry.

+1cc to the Special Government Pleader Sr. 20851
+1cc to M/S.S.N. Kirubanandam, Advocate Sr. **21624**

W.P.No.8117 of 2017

VGI(CO)
VR(06/04/2017)
RS(11/04/2017)