IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2017

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.5120 of 2017 &
W.M.P.No.5416 of 2017

Tvl.Captiv Fenestration,
Represented by its Partner,
S.Premakumari,
S.F.No.207/1-B & 207/1-C,
Selakarichal Road,
Appianakianpatti,
Sulur Taluk, Coimbatore - 641 402. ... Petitioner

Vs

1.The Assistant Commissioner (CT),
Avinashi Assessment Circle, Avinashi.

2.The Commercial Tax Officer,
Aliyar Roving Squad,
Pollachi. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari to call for the records on the files of the second respondent in No.43544, dated 22.02.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For petitioner : Mr.R.Senniappan
For respondents: Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Taxes), who took notice for the respondents and with their consent, the writ petition is taken up for disposal.

2. This Writ Petition has been filed challenging the Goods Detention Notice No.43544, dated 22.02.2017 issued by the second respondent as being without jurisdiction and authority of law and contrary to the principles of natural justice.

3. The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 and assessee on the file of the first respondent. The petitioner has made purchases of UPVC Reinforcement Section 580 mm (25015 Kg) from M/s.G.B.Enterprises (P) Ltd., Haryana as evidenced from the Tax Invoice No.1363, dated 17.02.2017 for a value of Rs.16,64,873/- which accompanied with consignment during transport from Haryana to Coimbatore, the second respondent, during transport at Kayampettai near Coimbatore intercepted the vehicle and detained the consignment on the ground that the petitioner has not raised the inward JJ Form under Section 67-A of the TNVAT Act, 2006. However, the petitioner was informed that unless the payment of one time tax and double time tax as compounding fees were being made, the goods in question cannot be released notwithstanding the fact that the consignment viz., UPVC Reinforcement Section 580 mm (25015 Kg) has not been reflected anywhere under Section 67-A of the TNVAT Act, 2006, like commodities mentioned thereunder. Aggrieved over the same, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the Goods Detention Notice dated 22.02.217 is ex-facie illegal, arbitrary and unjustifiable in law. The learned counsel for the petitioner submitted that the petitioner is inclined to pay the one time tax to be quantified by the authority concerned for the purpose of the release of the goods.

5. On the other hand, Mr.K.Venkatesh, learned Government Advocate (Taxes), who took notice for the respondents submitted that when the petitioner's goods were transported, it was checked. He further submitted that when the driver of the vehicle refused to produce the valid documents, the second respondent detained the goods for the purpose of verifying the genuineness of the transactions, as such, the impugned notice came to be issued as per law.

6.Heard the rival submissions made on both sides and perused the materials available on record.

7. Though the learned counsel for the petitioner raised various grounds against the impugned notice, he ultimately submitted that the petitioner is willing to pay the one time tax amount to be quantified by the authority concerned for the purpose of early release of the goods.

8. In the light of the above submissions, there will be a direction to the respondents to quantify the 'one time tax', within 24 hours from the date of receipt of a copy of this order and on such quantification, the petitioner shall remit the one time tax amount and on such remittance, the goods along with the vehicle shall forthwith be released by the respondents. It is made clear that the petitioner is at liberty to work out the other remedies available under the provisions of the TNVAT Act.

9. With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

r n s

To

1.The Assistant Commissioner (CT),
Avinashi Assessment Circle, Avinashi.

2.The Commercial Tax Officer,
Aliyar Roving Squad,
Pollachi.

+1 cc to Mr.R.Senniappan Advocate sr 13187

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