IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.721 of 2017
and
W.M.P.No.761 of 2017

Jothi Polymers Private Ltd.,
represented by its Managing Director,
B.Kalyana Sundar,
Gandhi Nagar, Nesapakkam,
NO.8, Arunachalam Street,
Chennai-600 078. .. Petitioner

Vs

1.The Deputy Commercial Tax Officer,
Ranipet (in) Check Post,
Serkadu.

2.The Assistant Commissioner (CT),
Ramapuram Assessment (C), Circle,
Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the first respondent herein in G.D.No.2246/2016-17 dated 30.12.2016 and quashing the same.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents.

2.The petitioner has filed this writ petition challenging the Goods Detention Notice issued by the first respondent dated 30.12.2016. Pursuant to the interim order granted by this Court, on payment of one time tax, the goods have been released. Now the validity of the impugned order has to be tested in this writ petition.

3.The only reason for detaining the goods which were moving from Gujarat is on the ground that the goods were not accompanied with electronically generated Form-JJ. The question would be whether solely on this reason, the goods can be detained. As this issue has arisen in several inter-state movements, the Commissioner of Commercial Taxes issued a Circular in Circular No.33 of 2014 dated 17.07.2014 by which instruction was given to the effect that the movement of goods accompanied with valid invoice satisfies the provisions of Section 68 of the Tamil Nadu Value Added Tax Act, there is no offence falling under Section 71(5)(a) of the Tamil Nadu Value Added Tax, 2006 ("TNVAT Act" in short). Further, in the Circular, the officers were informed that composition of offence under Section 72(1)(a) of the TNVAT Act is possible only in the case of the dealer's failure to pay or attempting to evade or evasion of any tax payable under the TNVAT Act. If the said Circular is applied to the facts and circumstances of the present case, the only conclusion that could be arrived is that the first respondent was not justified in detaining the goods absolutely on the ground that Form-JJ was not accompanying the goods, but whereas the goods were accompanied by sale invoices. Thus, the detention order is not legally tenable.

4.Hence, the writ petition is allowed and the impugned notice is quashed and the second respondent, the petitioner's assessing officer is directed to do the necessary formalities for completing the assessment as one time tax has been remitted to the Department. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No **16.08.2017**
Internet : Yes/No

KM

To

1.The Deputy Commercial Tax Officer,
Ranipet (in) Check Post,
Serkadu.

T.S.SIVAGNANAM, J.

KM

2.The Assistant Commissioner (CT),
Ramapuram Assessment (C), Circle,
Chennai.

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