IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.No.9255 of 2017
and
W.M.P.No.10208 of 2017

Tvl. AARAA Textiles,
Represented by its Proprietor,
C. Ramesh,
No.150/1, Vivekanandar Salai,
Oppoiste North Police Station,
Erode - 638 001 ... Petitioner

Vs.

1. The Assistant Commissioner (CT),
Chithode Assessment Circle,
Erode - 9.

2. The Deputy Commercial
Tax Officer (Enf),
(Spl), (Roving Squad),
Cuddalore. ... Respondents

This writ petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records on the file of the 2nd respondent in Goods Detention Notice No.1722/16-17 dated 23.03.2017 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

This Writ Petition is filed challenging the order passed by the 2nd respondent dated 23.03.2017 ordering the payment of one time tax and compounding fee, in pursuant to the initiation of goods detention proceedings.

2. Mr. K. Venkatesh, learned Government Advocate takes notice for the respondents and by consent, the main writ petition itself is taken up for final disposal.

3. Mr.R. Senniyappan, learned counsel appearing for the petitioner submitted that, even though the petitioner gave a reply/objection, the 2nd respondent failed to consider those objections, while passing the impugned order. He further submitted that the petitioner in their reply specifically pointed out that any further documents required will be furnished before the 2nd respondent, if the same are called for. On the other hand, the learned Government Advocate submitted that the present order was passed in compliance with the earlier order passed by this Court in W.P. No.5739 of 2017 dated 08.03.2017. Therefore, he submitted that the petitioner can agitate the matter before the revisional authority, if they are not satisfied with the order passed by the 2nd respondent.

4. Heard both sides.

5. The petitioner, earlier approached this Court and filed a Writ Petition in W.P.No.5739 of 2017 challenging the Goods Detention Notice dated 02.03.2017. After hearing both sides, this Court allowed the release of goods, subject to certain conditions and the operative portion of the said order reads as follows.

> "Considering the above stated facts and circumstances and in view of the similar orders passed in other writ petitions arising out of the goods detention notice, this writ petition is disposed of as follows:
>
> a) The petitioner shall pay a sum of Rs.2,80,000/- (Rupees two lakhs only) to the first respondent towards the tax imposed in the impugned notice, without prejudice to their rights, immediately on receipt of this order;
>
> b)On receipt of proof of such payment, the second respondent shall release the goods at once;
>
> c) The petitioner shall give an explanation before the second respondent within a period of seven days from the date of receipt of the copy of this order;
>
> d) On receipt of such explanation, the second respondent shall pass orders on merits and in accordance with law within a period of two weeks thereafter.

6. Thus, it is evident from the perusal of the said order that the petitioner was directed to give an explanation to the 2nd respondent within the period of seven days from the date of the receipt of the copy of the said order and consequently, the 2nd respondent was directed to pass orders on merits and in accordance with law within the period of two weeks thereafter. It is seen that the said order copy was made ready on 08.03.2017 and delivered to the petitioner on

the same day. However, the petitioner has chosen to sent a reply by speed post only on 15.03.2017 which was received by the 2nd respondent on 20.03.2017. The 2nd respondent, thereafter passed the present impugned order, pointing out certain shortcomings in the documents of export sent by the petitioner through such reply dated 15.03.2017. Thus, the 2nd respondent confirmed the one time tax of Rs.2,80,000/- and the compounding fee of Rs.5,61,000/-. The correctness or otherwise of the findings rendered by the 2nd respondent on the appreciation of the documents filed by the petitioner can always be gone into by the Revisional Authority, if the petitioner is aggrieved against such findings and consequent imposition of tax and compounding fee. Therefore, this Court is of the view that it is for the petitioner to work out their remedy before the Revisional Authority by filing appropriate revision. When this Court has already granted time to make the objection and the 2nd respondent also passed an order considering the documents filed by the petitioner sent along with the objection, it is for the petitioner to challenge the order of the 2nd respondent before the Revisional Authority by raising all the points. Therefore, I find that the present writ petition cannot be entertained, as the petitioner can agitate the matter before the Revisional Authority. Accordingly, the writ petition is dismissed without expressing any view on the merits of the claim made by the petitioner, however, with liberty to the petitioner to file such revision before the Revisional Authority within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi/rkp

To

1. The Assistant Commissioner (CT),
Chithode Assessment Circle,
Erode - 9.

2. The Deputy Commercial Tax Officer (Enf),
(Spl), (Roving Squar),
Cuddalore.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.23464
+1cc to the Special Government Pleader, S.R.No.23386

KJI(CO)
EU 25.4.17