IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.02.2017
CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.4280 of 2017
And
W.M.P.No.4478 of 2017

M/s.Cosmik Industry
rep. by its Mg.Partner K.P.Badrinarayanan ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Katpadi Checkpost,
Katpadi, Vellore. ... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the Respondent in his Goods Detention Notice No.1665/16-17 dated 14.02.2017 in Form No.041 and consequential Compounding Notice in G.D.No.1665/2016-17 dated 14.02.2017 and quash the same as illegal and direct the Respondent to release the goods of CR Coils covered by Four Invoices bearing Nos.0016080599 to 0016080602 dated 30.01.2017 and detained vide Goods Detention Notice No.1665/16-17 dated 14.02.2017 immediately.

For Petitioner : Mr.S.Ramanathan
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

1.Issue Notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.This writ petition is directed against the goods detention notice dated 14.02.2017 and the consequent compounding notice of even date i.e., 14.02.2017.

3.The reasons given in the compounding notice for detaining the subject goods, i.e., CR Coils is as follows:

> "......During the verification at Katpadi Check Post it was noticed that the Goods transported moved from Orissa to

Pattanam and Selvapuram. Without Invoice Bill, Online, Form JJ and Form MM.

Thus it is clear that the movement is suspicious and the dealers have made an attempt to evade the tax....”

4.The petitioner's case on the other hand is that the goods which were bought from an entity by the name: Bhushan Steel Limited, were being moved from Orissa to Pattanam and Selvapuram for the purposes of job work.

4.1.It is therefore, the stand of the petitioner that in the subject invoices itself along with the petitioner's name, the name of the consignee was also given.

4.2.To be noted, three invoices refer to M/s.Ramaswamy Engineering as the consignee, while the fourth invoice refers to M/s.Mahalakshmi Precision Stampings as the consignee.

5.The petitioner further avers that, since, the subject transaction is an Inter State sale, it cannot be subjected to local tax.

5.1.However, the learned counsel for the petitioner says that in order to expedite the release of the subject goods, the petitioner would be willing to pay the one time tax as reflected in the impugned compounding notice, without prejudice to its rights and contentions to challenge both the levy of tax as well as compounding fee.

6.Mr.Venkatesh, who appears for the respondent, says that, if, one time tax is paid, the subject goods will be released to the petitioner.

7.I have heard the learned counsel appearing for the parties and perused the records.

8.In my view, if one time tax is paid, the subject goods ought to be released to the petitioner.

8.1.It is ordered accordingly.

8.2.Upon payment of Rs.68,891/-, the goods will be released to the petitioner.

9.It is made clear that the payment of one time tax, will not come in the way of the petitioner in laying a challenge to the imposition of tax and compounding fee, in accordance with law.

10.The writ petition is disposed of in the aforementioned terms. Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Deputy Commercial Tax Officer,
Katpadi Checkpost,
Katpadi, Vellore.

+1cc to Mr.S. Ramanathan, Advocate, S.R.No.10936

ssi(CO)
md(21/02/2017)

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