IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.9342 of 2014
MP No.2 of 2014

Marg Limited
having its registered office at
No/4/318, Rajiv Gandhi Salai,
Kottivakkam,
Chennai-600 041,
represented by its
Vice President Accounts and Finance,
EPC Division (South),
Marg Limited .. Petitioner

vs.

1. The Deputy Commercial Tax Officer,
   Ranipet in Checkpost,
   Serkadu.

2. The Assistant Commissioner of Commercial Taxes,
   Enforcement Vellore,
   Vellore.

3. The Joint Commissioner of Commercial Taxes,
   Enforcement Vellore,
   Vellore.

4. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai-600 005. .. Respondents

Prayer : 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 pertaining to the issue of the compounding order in proceedings bearing GD No.118/2011-12, O.R.No.1255/11-12 dated 07.07.2011,vide Form No.43, duly issued by the Deputy Commercial Tax Officer, Ranipet in Check post, Serkadu, the first respondent herein and quash the same and direct the respondents to refund the compounding fee at Rs.1,34,463/- that had been collected illegally.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.K.Venkatesh
Government Advocate

ORDER

1. This is a writ petition, in which, the following relief has been prayed for :

> ".... to call for the records pertaining to the issue of the compounding order in proceedings bearing GD No.118/2011-12, O.R.No.1255/11-12 dated 07.07.2011, vide Form No.43, duly issued by the Deputy Commercial Tax Officer, Ranipet in Check post, Serkadu, the first respondent herein and quash the same and direct the respondents to refund the compounding fee at Rs.1,34,463/- that had been collected illegally. ....."

2. A perusal of the aforesaid extract, taken from the prayer clause of the writ petition, would show that the impugned goods detention notice and the compounding fee pertain to 2011. The petitioner, on the other hand, has instituted this writ petition in 2014.

3. Learned counsel for the petitioner concedes that both, tax and compounding fee, were paid, and therefore, this writ petition has been filed to seek a refund.

4. A perusal of the order dated 07.07.2011 would show that the goods were detained, in the first place, as, according to the respondents, they have been transported to a premises, which was not registered with them.

5. To my mind, no writ would lie for a pure relief of refund, which can only be a consequential order.

6. Therefore, the writ petition is dismissed, with liberty to the petitioner to take recourse to an appropriate remedy under the Tamil Nadu Value Added Tax Act, 2006, albeit, in accordance with law. Resultantly, pending application shall stand closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

gg

Sub Assistant Registrar

To

1. The Deputy Commercial Tax Officer,
   Ranipet in Checkpost,
   Serkadu.

2. The Assistant Commissioner of Commercial Taxes,
   Enforcement Vellore,
   Vellore.

3. The Joint Commissioner of Commercial Taxes,
   Enforcement Vellore,
   Vellore.

4. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai-600 005.

+1cc to the Government Pleader, S.R.No.6363

LRS(CO)
RS(21/02/2017)

W.P.No.9342 of 2014