IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.04.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.8386 of 2017

and W.M.P.No.9169 of 2017

SS Industries
represented by its Managing Partner
55/29, Wahab Nagar,
Tindivanam,
Villupuram. ... Petitioner

vs.

1. The Commercial Tax Officer (Enf.)
Roving Squad-II, Salem.

2. Krush Tar Industries Pvt. Ltd.,
48/2, Ground Floor,
Amman Nagar,
Denkanikotta Road,
Hosur. ... Respondents.

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 of the first respondent in his Proceedings in Goods Detention Notice No.00001001/2016-2017 dated 04.04.2017 and quash the same and direct the respondent to release the goods.

For Petitioner : Mr.Adithya Reddy
For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader for R1.

O R D E R

The petitioner is aggrieved against the goods detention notice dated 04.04.2017. Mr.Kanmani Annamalai, learned Additional Government Pleader takes notice for the first respondent.

2. The petitioner is the consignee and the 2nd respondent is the consignor. Since the goods purchased by the petitioner/ consignee is detained by the 1st respondent by issuing the

impugned communication, the petitioner has approached this Court and challenged the goods detention notice.

3. Heard both sides.

4. It is seen that the subject matter goods are detained by the 1st respondent on 04.04.2017, followed by issuing the impugned notice indicating certain reasons for such detention. Needless to say that it is for the petitioner to work out his remedy before the concerned Revisional Authority if an order fixing the quantum of tax and compounding fee is passed by the 1st respondent. It is seen that the 1st respondent has not passed any order so far, except issuing the impugned detention notice.

5. Learned counsel for the petitioner submits that since the goods has to reach its destination urgently, the petitioner would pay the one time tax liability without prejudice to their rights and contentions to be agitated before the Revisional Authority.

6. Learned Additional Government Pleader submitted that the 1st respondent will pass an order fixing the quantum of tax and compounding fee immediately and therefore, the petitioner can challenge the same before the Revisional Authority.

7. Considering the fact that the goods are detained and that the petitioner is also coming forward to pay one time tax liability, however, without prejudice to their rights and contentions to be raised before the Revisional Authority, I am of the view that the interest of both parties will be protected by passing the following order in this writ petition. Accordingly, this writ petition is disposed of as follows:

a) The 1st respondent shall pass an order fixing the quantum of tax liability and compounding fee immediately on receipt of a copy of this order. On fixing such quantum and passing such an order, the petitioner is permitted to pay one time tax liability as fixed by the 1st respondent before the 1st respondent immediately, without prejudice.

b) On such payment, the 1st respondent shall release the goods forthwith.

c) The petitioner is at liberty to challenge the final order passed by the 1st respondent before the Revisional Authority raising all the grounds.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer (Enf.)
Roving Squad-II, Salem.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.70978

sai(CO)
md(07/04/2017)

W.P.No.8386 of 2017