IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.04.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.8476 of 2017

A.M.Clean Air Engineering Pvt.Ltd.
No.3/237, Kovoor - Pattur Road,
Chinnapanchery, Paraniputhur,
Mangadu, Chennai - 600 122
Represented by its Authorised Signatory
No.39, Ramakrishna Avenue Main Road,
Ambal Nagar, Mangadu,
Chennai - 600 122. ... Petitioner

vs.

1. The Commissioner,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai - 5.

2. The Deputy Commissioner,
Commercial Tax Department,
Enforcement Wing,
Coimbatore.

3. The Commercial Tax Officer,
Enforcement Wing (Roving Squad)
Palladam @ Tirupur. ... 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 on the file of the third respondent in G.D.No.43358/2016-2017, OR.No.509/2016-2017 dated 17.2.2017 quash the same and directing the respondents to return the petitioner advance tax and compounding fees collected by 3rd respondent Rs.251256/- D.D.No.973919 and Rs.502512/- D.D.No.973920 dated 17.02.2017 wise.

For Petitioner : Mr.B.Rameshkumaar
For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) takes notice for the respondents and by consent of parties, the main writ petition itself is taken up for disposal.

2. The petitioner is aggrieved against the release order dated 07.02.2017 releasing the goods, subject to the condition of payment of advance tax of Rs.2,51,256/- and compounding fee of Rs.5,02,512/-.

3. According to the petitioner, the levy of tax and compounding fee is unsustainable. Admittedly, what is under challenge before this Court is only an order releasing the goods subject to payment of the above advance tax and compounding fee. The petitioner is not questioning the goods detention order and the consequent levy of tax and compounding fee. What is the order under challenge before this Court is only the consequential order releasing the goods subject to payment of such tax and compounding fee. If at all, the petitioner is aggrieved, he has to challenging the levy of tax and the compounding fee before the Revisional Authority. Without doing so, the petitioner has approached this Court and filed the present writ petition, which according to my view is not entertainable.

4. Accordingly, the writ petition is disposed of, without expressing any view on the merits of the claim made by the petitioner, only with liberty to the petitioner to file a revision before the Revisional Authority and challenge the levy of one time tax and compounding fee . If any such revision is filed, it is for the Revisional Authority to consider the same on its own merits and in accordance with law. The petitioner is given two weeks time to file the revision from the date of receipt of a copy of this order. The Revisional Authority is directed to dispose of the revision within a period of four weeks from the date of receipt of such revision on its own merits and in accordance with law . No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner,
   Commercial Taxes Department,
   Ezhilagam, Chepauk,
   Chennai - 5.

2. The Deputy Commissioner,
   Commercial Tax Department,
   Enforcement Wing,
   Coimbatore.

3. The Commercial Tax Officer,
   Enforcement Wing (Roving Squad)
   Palladam @ Tirupur.

+1 CC to M/s. B. Ramesh Kumar, Advocate sr 21829
+1 CC to Spl. Govt. Pleader(Taxes) sr 21572

W.P.No.8476 of 2017

NRI(CO)
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