IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.5559 of 2017
and W.M.P.No.5908 of 2017

Tata Power Solar Systems Limited,
Represented by its Authorised Signatory,
Plot No.264, Survey No.127 & 137,
Industrial Area,
Bommasandra - Jigani Link Road, ... Petitioner

Vs.

The Commercial Tax Officer,
Roving Squad - IV,
Enforcement (North),
Greams Road,
Chennai - 600 006. ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the Respondent dated 18.02.2017 in G.D.No.1790/16-17 and quash the same and direct the respondent to release the goods.

For Petitioner:Ms.Naveena.D.

For Respondent :Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) takes notice on behalf of the respondent. By consent of all the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the detention notice issued in Form No.41 dated 18.02.2017 in G.D.No.1790/16-17 and consequently, the petitioner also seeks for a direction to the respondent to release the goods.

3. Heard both sides.

4. What is under challenge before this Court is only the detention notice issued by the respondent by alleging that the goods transported by the petitioner was not accompanied by the documents prescribed in Sub-Section 5 of Section 67 of the Tamil Nadu VAT Act, 2006 and that the respondent had reason to believe that there was sale of the goods liable to tax. The impugned detention notice also referred to various grounds of detention. The petitioner has straight away come before this Court and challenged the detention notice by contending that there was no evasion of tax and that the respondent is not justified in issuing the detention notice. Needless to say that it is for the petitioner to approach the respondent and give explanation by enclosing all the material documents so as to enable the respondent to arrive at a final conclusion as the very detention notice itself came to be issued based on the reasonable presumption of the respondent.

5. Learned Additional Government Pleader (Tax) appearing for the respondent submitted that if the petitioner approaches and files an explanation before the respondent, the same will be considered and a one time tax liability will be arrived at so that the petitioner can pay such tax and get the goods released.

6. Insofar as the other aspects of the order, viz., compounding fee etc., to be passed are concerned, the learned counsel for the respondent submitted that it is for the petitioner to file a revision before the revisional authority simultaneously. Learned counsel for the petitioner submitted that the petitioner is willing to go and file an explanation before the respondent immediately without loss of further time.

7. Considering the above stated facts and circumstances and considering the fact that the very impugned proceedings is only the detention notice, this Court is of the view that the petitioner must approach the respondent and give the explanation as discussed supra.

8. Accordingly, this writ petition is disposed of by granting liberty to the petitioner to approach the respondent and file their explanation within a a period of seven days from the date of receipt of a copy of this order and on receipt of

such explanation with relevant materials, the respondent shall pass orders on merits and in accordance with law within a period of seven days thereafter. On receipt of such order, it is open to the petitioner to work out their remedy in the manner known to law either by accepting the liability and pay the tax or challenge the same before the appropriate Forum. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Roving Squad - IV,
Enforcement (North),
Greams Road, Chennai - 600 006.

+1cc to Mr.Adithya Reddy, Advocate Sr.14404
+1cc to the Special Government pleader Sr.14425

W.P.No.5559 of 2017

ar(v)
srg 7/3/2017