IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.10669 of 2017
and W.M.P.Nos.11611 to 11613 of 2017

M/s.Priya Enterprises
Rep. By its authorized signatory,
S.No.3671A/NA, Thally Road,
Belagondapalli, Hosur,
Tamil Nadu 635 114 .. Petitioner

Vs.

1. Deputy Commercial Tax Officer
and Checkpost Officer,
K.G.Chavadi Checkpost (Outgoing)
Coimbatore 641 105.

2.Safa Plywood Pvt. Ltd.,
Eruthumala PO, Aluva, Kerala. .. Respondents

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 1st respondent in his Goods Detention Notice in GDR No.128/2017-18 dated 21.04.2017 and consequential ''Compounding Notice'' dated 21.04.2017 and quash the same and direct the 1st respondent to release the goods.

For Petitioner : Mr.Manikandan
for M/s.Adithya Reddy

For Respondents : Mr.K.Venkatesh,
Government Advocate (Tax) for R-1

O R D E R

Mr.K.Venkatesh, learned Government Advocate (Tax) takes notice for the first respondent. By consent, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the goods detention

notice dated 21.04.2017 and the consequential compounding fee notice of the same date.

3. Heard both sides.

4. It is seen that the 1st respondent detained the subject matter goods, based on certain reasons set out in the impugned proceedings.

5. Learned counsel for the petitioner submitted that the petitioner has not violated any rules and therefore, the impugned proceedings are bad in law. However, for the purpose of getting the goods released immediately so as to allow the same to reach its destination, the learned counsel for the petitioner submitted that the petitioner will pay one time tax fixed and demanded by the 1st respondent amounting to Rs.50,064/-, without prejudice to their rights to agitate the matter before the competent revisional authority, challenging such imposition of one time tax and compounding fee. Therefore, he submitted that once the petitioner pays the one time tax, the respondents may be directed to release the goods immediately.

6. Learned Government Advocate appearing for the 1st respondent submitted that since the tax and the compounding fee liability have been arrived at, it is for the petitioner to work out their remedy before the Revisional Authority by challenging the impugned proceedings.

7.Upon hearing the learned counsel appearing on either side and considering the facts and circumstances of the case and more particularly, the submission made by the learned counsel for the petitioner that the petitioner would pay one time tax, however, without prejudice to their contention to be raised before the Revisional Authority, this Court is of the view that it would suffice for the present to direct the first respondent to release the goods on receipt of one time tax amounting to Rs.50,064/-, however by giving liberty to the petitioner to agitate the matter before the Revisional Authority against the very imposition of tax and compounding fee. On receipt of such payment of tax, the respondents shall forthwith release the goods. Accordingly, the writ petition is disposed of. No costs. Consequently, W.M.P.Nos.11611 to 11613 of 2017 are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi

To

1. The Deputy Commercial Tax Officer
   and Checkpost Officer,
   K.G.Chavadi Checkpost (Outgoing)
   Coimbatore 641 105.

+1 cc to the Special Government Pleader Taxes sr 25033
+1 cc to M/s.Adithya Reddy Advocate sr 24913

W.P.No.10669 of 2017

rj(co)
aa26/04/2017