IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.10697 of 2017
and W.M.P.No.11651 of 2017

M/s.Alfa Associates,
Rep. By its Proprietor,
No.99, Vaigarai Block,
St.Paul's Complex-1,
Bharathiyar Salai Cantonment,
Trichy 620001. .. Petitioner

Vs.

1.The Deputy Commissioner(CT),
Enforcement (Vellore),
Government Buildings, Fort Round,
Bharathiyar Salai,
Vellore 632 001.

2.The Deputy Commercial Tax Officer,
Kandamangalam Check Post,
Lingareddipalayam,
Villupuram District. .. 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 second respondent in G.D.No.3775/2017-18, dated 17.04.2017 and consequential notice dated 19.04.2017 and quash the same and further direct the second respondent to release the consignment detained on 17.04.2017.

For Petitioner: M/s.C.Rekha Kumari
For Respondents: Mr.K.Venkatesh,
Government Advocate (Tax)

O R D E R

Mr.K.Venkatesh, learned Government Advocate (Tax) takes notice for the respondents. 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 17.04.2017 and the consequential compounding fee notice dated 19.04.2017.

3. Heard both sides.

4. It is seen that the second 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 second respondent amounting to Rs.1,33,006/-, 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 respondents 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 second respondent to release the goods on receipt of one time tax amounting to Rs.1,33,006/-, 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, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vri

To

1.The Deputy Commissioner(CT),
Enforcement (Vellore),
Government Buildings, Fort Round,
Bharathiyar Salai,
Vellore 632 001.

2.The Deputy Commercial Tax Officer,
Kandamangalam Check Post,
Lingareddipalayam,
Villupuram District.

+ 1 cc to Mr. C.Rekhakumari, Advocate Sr.25477
+ 1 cc to the Special Government Pleader Sr.25455

W.P.No.10697 of 2017

RJ(CO)
Eu 27.4.17