

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.4593 of 2017

M/s.Jagdambe Enterprises  
Rep. by its Partner Near Telephone ... Petitioner  
Exchange Dussehra Ground, Moga  
Punjab 142 001

Vs.

- 1 Joint Commissioner (CT)  
Chennai North Division,  
Greems Road, Chennai - 600 006.
- 2 Deputy Commercial Tax Officer  
Roving Squad,  
Enforcement (North),  
Chennai - 600 006. .... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the first respondent to hear this revision petition filed by the petitioner which was filed two years before under Section 54 of TNVAT Act and pass appropriate orders and to direct the second respondent to return the bank guarantee filed this case.

For Petitioner : Mr.C.Baktha Siromoni  
For Respondent : Mr.K.Venkatesh  
Government Advocate

O R D E R

1.Issue notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.Briefly, the petitioner's grievance is two fold:

2.1.First, that the bank guarantee furnished to secure the possibility of compounding fee being imposed on the petitioner has not been discharged, despite, the fact that nearly two years

have lapsed.

2.2.Second, that a revision petition preferred with the respondent no.1 has been pending adjudication since, 27.02.2015.

3.To be noted, the petitioner's case is that it is registered as a dealer in the State of Punjab and that in the course of its business, it had imported goods, i.e., Radiators from China via, the Chennai Port.

4.The petitioner claims that while the goods were being transported in the course of Inter State-sale to Agra in the State of U.P., they were intercepted at the Check Post. Pursuant thereto, the petitioner moved this Court via, writ petition which was numbered as W.P.No.2670 of 2015.

4.1.The said writ petition was disposed of by an order dated 04.02.2015, with the following operative direction:

"5.Accordingly, the Writ Petition is disposed of with a direction to the respondents to release the goods on payment of the tax component in a sum of Rs.29,324/-. The petitioner shall furnish bank guarantee for the balance amount to be paid. In so far as any other claims of the respondent is concerned, he shall await the adjudication. No costs. Consequently, connected M.P. is closed."

5.Accordingly, the petitioner claims that one time tax amounting to Rs.29,324/- was paid and a bank guarantee in the sum of Rs.11,54,000/- was furnished as security towards a possible claim qua, compounding fee.

5.1.Consequently, the goods were admittedly, released to the petitioner.

5.2.As indicated at the outset, revision petition was filed with the respondent no.1, which, concededly, is pending adjudication.

6.Mr.Baktha Siromoni, learned counsel for the petitioner says that the bank guarantee should be discharged and handed over to the petitioner, in view of the fact that delay in disposal of the revision petition is resulting in financial detriment to the petitioner.

7.Mr.Venkatesh, who appears on behalf of the respondents says that, if, a direction is issued to respondent no.1, the pending revision petition will be disposed of expeditiously.

8.Having heard the learned counsel for the parties and perused the record, according to me, the best way forward is to

direct respondent no.1 to dispose of the revision petition.

9. Accordingly, the respondent no.1 is directed to dispose of the revision petition, as expeditiously as possible, though, not later than six weeks from the date of receipt of a copy of this order, after affording personal hearing to the petitioner and/ or its authorised representative.

9.1. In case, the petitioner is successful in the revision petition, the subject bank guarantee will be cancelled and handed over to the petitioner and/ or its authorised representative.

10. The writ petition is disposed of in the aforementioned terms. However, there shall be no order as to costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 Joint Commissioner (CT)  
Chennai North Division,  
Greens Road, Chennai - 600 006.
- 2 Deputy Commercial Tax Officer  
Roving Squad,  
Enforcement (North),  
Chennai - 600 006.

+1cc to Mr.C. Bakthasiromoni, Advocate, S.R.No.11903  
+1cc to the Government Pleader, S.R.No.11880

scd(CO)  
md(27/02/2017)

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