IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.7703 OF 2017
AND
W.M.P No.8419 OF 2017

M/s.Kriti Machinery Pvt Ltd.,
Rep. By its Director Mr.A.Subbiah,
B-15, SIPCOT Industries Area-Park-3,
Oragadam Village, Sriperumbadur Taluk,
Tamilnadu 602 105. ..Petitioner

Vs

1.The Deputy Commercial Tax Officer,
Check-Post Officer,
Tiruttani.

2.The Assistant Commissioner (CT),
Oragadam Assessment Circle,
No.3/178, Ezhilarasi Building, Haziya Nagar,
Padappai, Chennai 601 301. ..Respondents

Prayer:-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 first respondent in Goods Detention Notice No.16/16-17 dated 18.03.2017 and consequential proceedings in Goods Detention Notice No.16/16-17 dated 22.03.2017, quash the same and further direct the first respondent to release the goods without any condition subject to the final adjudication by the second respondent being the appointed assessing officer under the Tamilnadu Value Added Tax Act, 2006.

For Petitioner	:	Mr.V.Sundareswaran
For Respondents	:	Mr. K.Venkatesh Government Advocate

ORDER

The petitioner is aggrieved against the goods detention notice No.16/16-17 dated 18.03.2017.

2.Heard the learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

3.It is seen that the first respondent has detained the goods with the vehicle by issuing the impugned notice based on certain reasons set out therein. The first respondent thus determined the one time tax liability of Rs.12,23,437.50/- and compounding fee of Rs.24,46,895/-.

4.Learned counsel appearing for the petitioner submitted that the impugned detention and the consequential demand are unsustainable in law, as the reasons set out in the impugned proceedings are made without any basis. Even though he submitted so, considering the fact that the goods were detained on 18.03.2017 and the same have to reach its destination immediately, he further submitted that without prejudice to the rights and interest of the petitioner to agitate the matter before the competent authority after the final order is passed by the second respondent, the petitioner would pay the one time tax liability and get the goods released.

5.Learned Government Advocate appearing for the respondents submitted that the petitioner can very well challenge the impugned proceedings before the appropriate revisional authority.

6.Upon hearing the learned counsels appearing on either side and considering the fact that the petitioner has come forward to pay one time tax without prejudice to their contentions and rights, this court is of the view that it would suffice for the present to direct the first respondent to release the goods and vehicle subject to certain terms and conditions. Accordingly, the writ petition is disposed of as follows:

a) The petitioner shall pay the one time tax liability of Rs.12,23,437.50 before the second respondent immediately on receipt of a copy of this order;

b) The petitioner shall produce the proof of such payment before the first respondent;

c)On receipt of such proof of payment, the first respondent shall release the goods and vehicle forthwith;

d) The second respondent shall pass the final order within a period of four weeks from the date of receipt of a copy of this order;

e) On receipt of such final order, it is open to the petitioner to challenge the same before the revisional authority in a manner known to law including the imposition of tax and the compounding fee.

f) In case, the second respondent passes an order of assessment by accepting the contention of the petitioner, the amount now directed to be paid and thus paid by the petitioner shall have to be refunded to the petitioner, if an order of assessment is made to that effect. It is also made clear that this court has not expressed any view on the merits of the contentions raised by both parties, as it is for the Assessing Authority viz., the second respondent to consider and decide the same in accordance with law. No costs. The connected miscellaneous petition is closed.

06.04.2017

Note:Issue copy on 07.04.2017.

Speaking/Non Speaking
Index : Yes / No
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K.RAVICHANDRABAABU, J.,
vri

To

1.The Deputy Commercial Tax Officer,
Check-Post Officer,
Tiruttani.

2.The Assistant Commissioner (CT),
Oragadam Assessment Circle,
No.3/178, Ezhilarasi Building, Haziya Nagar,
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