IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.6726 of 2017
And
W.M.P.No.7263 of 2017

M/s.Blue Horse Industries,
Represented by its Proprietor Nathuram ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi. ... Respondent

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in G.D Notice 1678/2016-17 dated 13.03.2017 issued by the respondent and to quash the same as illegal, arbitrary and in violation of the provisions of the TNVAT Act and direct the respondent to release the consignments detained on 13.03.2017.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Taxes)

O R D E R

The petitioner is aggrieved against the goods detention notice dated 13.03.2017 and challenging the same, has filed this writ petition.

2.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) takes notice for the respondent and by consent, the main writ petition itself, is taken up for final disposal at the admission stage.

3.The petitioner is a registered dealer and the respondent has detained the goods on 13.03.2017 and issued the impugned notice by stating some reasons for such detention. On the same day, a compounding notice was also issued, wherein, the respondent has arrived the quantum of tax payable by the petitioner at the rate of 14.5% as Rs.53,977/- and the compounding fee as Rs.1,07,954/-.

4.It is contended by the learned counsel for the petitioner that the petitioner has not violated any Rules and therefore, the impugned detention proceedings are un-lawful. However, he submitted that since the goods are detained as early as on 13.03.2017 and the same is to be released for the purpose of meeting out the contractual obligation within the stipulated time, the petitioner is willing to pay the one time tax of Rs.53,977/- without prejudice and agitate the matter, before the Revisional Authority, challenging the imposition of such tax as well as the compounding fee.

5.This Court, under similar circumstances has considered the release of the goods on payment of one time tax, however, by granting liberty to the petitioner to agitate the matter before the concerned Revisional Authority, challenging such imposition of tax and compounding fee.

6.The learned Additional Government Pleader (Taxes) submitted that similar order can be passed in this writ petition also.

7.Considering the above stated facts and circumstances, this writ petition is disposed of with the following directions:

(a)The petitioner shall pay a sum of Rs.53,977/- to the respondent, immediately, on receipt of a copy of this order.

(b)On receipt of such payment, the respondent shall release the goods, forthwith.

(c)It is open to the petitioner to challenge the imposition of tax as well as the compounding fee, before the Revisional Authority, by way of filing appropriate proceedings.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi.

+1cc to Mr.S.Karunakar, Advocate, sr 17013

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rmp(20/03/17)