In the High Court of Judicature at Madras

Dated: 08.03.2017

Coram

The Honourable Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.5739 of 2017

andW.M.P.No.6141 of 2017

Tvl.AARAA Textiles,
Rep. By its Proprietor,
C.Ramesh,
No.150/1, Vivekanandar Salai,
Opposite North Police Station,
Erode 638 001. .... Petitioner

Vs.

1.The Assistant Commissioner (CT),
Chithode Assessment Circle,
Erode-9.

2.The Deputy Commercial Tax Officer (Enf),
(Spl) (Roving Squad),
Cuddalore. ...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records on the file of the second respondent in Goods Detention Notice No.1722/2016-17 dated 2.3.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader (T)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) takes notice for the respondents. By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is a registered dealer in textile machinery and assessee on the file of the first respondent. The petitioner got an order from a foreign buyer for exporting textile machinery and during the movement of such machinery from Erode to Chennai for exporting the same to such foreign buyer, the said goods was detained by the second respondent on 28.02.2017 by contending that the dealer has not produced export invoice and other documents. Accordingly, the goods detention notice is issued calling upon the petitioner to compound the offence departmentally, by imposing a tax of Rs.2,80,000/- with compounding fee of Rs.5,61,000/-.

2.Learned counsel appearing for the petitioner submits that the allegation made in the impugned notice is totally incorrect and baseless, as the petitioner is having sufficient materials to disprove such contention. Thus, he submitted that the petitioner is not liable to pay any tax. However, the learned counsel appearing for the petitioner submitted that since there is an urgency to get the goods released so as to export the same within the time bound action, the petitioner, without prejudice to their rights, will pay the tax amount of Rs.2,80,000/- to the first respondent for the purpose of releasing the goods immediately. Learned counsel further contended that the petitioner will give a suitable explanation to the second respondent immediately and on receipt of such explanation, the second respondent can be directed to pass an order on merits.

3.Learned Additional Government Pleader appearing for the respondents submitted that once the petitioner gives explanation, the second respondent will pass appropriate orders without loss of further time.

4.Considering the above stated facts and circumstances and in view of the similar orders passed in other writ petitions arising out of the goods detention notice, this writ petition is disposed of as follows:

a) The petitioner shall pay a sum of Rs.2,80,000/- (Rupees two lakhs only) to the first respondent towards the tax imposed in the impugned notice, without prejudice to their rights, immediately on receipt of this order;

b) On receipt of proof of such payment, the second respondent shall release the goods at once;

c)The petitioner shall give an explanation before the second respondent within a period of seven days from the date of receipt of the copy of this order;

d) On receipt of such explanation, the second respondent shall pass orders on merits and in accordance with law within a period of two weeks thereafter.

No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Assistant Commissioner (CT),
Chithode Assessment Circle,
Erode-9.

2.The Deputy Commercial Tax Officer (Enf),
(Spl) (Roving Squad),
Cuddalore.

+1cc to M/S.R. Senniappan, Advocate SR. 14932

W.P.No.5739 of 2017

GMI(CO)
VR(08/03/2017)