

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.5757 of 2017

and

W.M.P.No.6151 of 2017

M/s.Hitachi Home and Life Solutions(India) Ltd.,
Rep. by its Power of Attorney,
Mr.K.S.Murugan,
Tulsi Apartments, No.47, II Main Road,
Raja Annamalai Puram,
Chennai-600 028. ...Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
Pennaiyar Bridge Check Post,
Cuddalore-607 001.
- 2.The Assistant commissioner(CT),
Alwarpet Assessment Circle,
No.46, Greenways Road,
Chennai-600 028.
- 3.The Commercial Tax Officer,
Division-I,
Puducherry-605 005 .. 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 impugned proceedings of the first respondent in G.D.No.2254/2016-2017 dated 25.02.2017 and quash the same and further direct the first respondent to release the detained consignment of ''Ductable Split AC'' without insisting on one time tax and two times tax as compounding fees.

For Petitioner : Mr.C.Sivasubramanian

For Respondents : Mr.S.Kanmani Annamalai, AGP.(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 aggrieved against the goods detention notice dated 25.02.2017, wherein, the goods belonging to the petitioner is detained by setting out certain reasons for such detention. The first respondent, who passed the detention order has also imposed a tax of Rs.32,536/- and compounding fees of Rs.65,071/- on the petitioner.

3.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, the petitioner, without prejudice to their rights, will pay the tax amount of Rs.32,536/- to the second respondent for the purpose of releasing the goods immediately. Learned counsel further contended that the petitioner will give a suitable explanation to the first respondent immediately and on receipt of such explanation, the first respondent can be directed to pass an order on merits.

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

5.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.32,536/- (Rupees thirty two thousand five hundred and thirty six only) to the second 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 first respondent shall release the goods at once;

c)The petitioner shall give an explanation before the first 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 first 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

Dn

To

1. The Deputy Commercial Tax Officer,
Pennaiyar Bridge Check Post,
Cuddalore-607 001.

2.The Assistant commissioner(CT),
Alwarpet Assessment Circle,
No.46, Greenways Road,
Chennai-600 028.

3.The Commercial Tax Officer,
Division-I,
Puducherry-605 005

+1cc to Mr.P.Rajkumar,Advocate sr.14953

+1cc to Special Government Pleader sr.15003

nrII(co)
ss(9/3/2017)

W.P.No.5757 of 2017

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