IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.08.2017

Coram:

The Hon'ble Mr. Justice T.S. Sivagnanam

W.P.No. 473 of 2017
and
W.M.P.Nos. 503 &504 of 2017

Ponnore Enterprises LLP,
Represented by its Partner
P.J. Saji,
76/1, P.H. Road,
Numbal Village-Velappanchavadi,
Chennai – 600 077. ...Petitioner

Versus

1. The Deputy Commercial Tax Officer,
   Ranipet (IN) Checkpost,
   Serkadu.

2. The Assistant Commissioner (CT)
   Koyambedu Assessment Circle,
   Market Management Committee Building,
   Koyambedu, Chennai – 600 107. ...Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorari calling for the records on the files of the first respondent herein in G.D.No.2248/2016-17, dated 30.12.2016, quashing the same.

http://www.judis.nic.in

For Petitioner : Mr. N. Inbarajan

For Respondents : Mr. S. Kanmani Annamalai,
Additional Government Pleader

ORDER

Heard Mr. N. Inbarajan, learned counsel appearing for the petitioner and Mr. S. Kanmani Annamalai, learned Additional Government Pleader appearing on behalf of the respondents.

2. With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

3. The petitioner has filed this writ petition challenging the Goods Detention Notice issued by the first respondent dated 30.12.2016. Pursuant to the interim order granted by this Court, on payment of one time tax to the second respondent, the goods have been released. Now the validity of the impugned order has to be tested in this writ petition.

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4. The only reason for detaining the goods which were moving from Punjab is on the ground that the goods were not accompanied with electronically generated Form-JJ. The question would be whether solely for this reason, the goods can be detained. As this issue has arisen in several inter-state movements, the Commissioner of Commercial Taxes issued a Circular in Circular No.33 of 2014 dated 17.07.2014, by which, instruction was given to the effect that the movement of goods accompanied with valid invoice satisfies the provisions of Section 68 of the Tamil Nadu Value Added Tax Act, there is no offence falling under Section 71(5)(a) of the Tamil Nadu Value Added Tax Act, 2006 ("TNVAT Act" in short). Further, in the Circular, the officers were informed that composition of offence under Section 72(1)(a) of the TNVAT Act is possible only in the case of the dealer's failure to pay or attempting to evade or evasion of any tax payable under the TNVAT Act. If the said Circular is applied to the facts and circumstances of the present case, the only conclusion that could be arrived is that the first respondent was not justified in detaining the goods only on the ground that Form-JJ was not accompanying the goods, but, whereas the goods were accompanied by sale invoices. Thus, the detention order is not sustainable.

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5. Hence, the writ petition is allowed and the impugned notice is quashed and the second respondent, the petitioner's assessing officer is directed to comply with the necessary formalities for completing the assessment as one time tax has been remitted to the second respondent. No costs. Consequently, the connected miscellaneous petitions are closed.

16.08.2017

km/mrr

Index : Yes/No
Internet : Yes/No

To

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T.S. Sivagnanam, J.,

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