IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.6793 of 2017
&
W.M.P.No.7360 of 2017

M/s.Bhuwalka Pipes (P) Limited,
Rep. By its Authorised Signatory Mr.Parmatma Prasad,
Near Sulthanpur Village,
Sandur Taluk, Bellary District,
Karnataka State 583 115. ....Petitioner

Vs.

1.The State of Tamilnadu,
Rep. By its Secretary to Government,
Department of Commercial Taxes and Registration Department,
Fort St.George,
Chennai 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk,
Chennai 600 005.

3.The Deputy Commercial Tax Officer,
Kandamangalam Check Post,
Linga Reddy Palayam,
Villupuram District.

4.M/s.Larsen & Toubro Ltd., Construction,
Dhanvanthri Nagar,
Pondicherry. ...Respondents

Prayer:

Petitions filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorarified mandamus to call for the records relating to the issue of the notice by the third respondent in goods detention notice NO.3763 dated 14.03.2017 and quash the same and to direct the third respondent to release the vehicle No.TN-21-AL-6410 with the goods.

For Petitioner Mr.A.S.Mujibar Rahman
For Respondents Mr.S.Kanmani Annamalai
Additional Government Pleader

ORDER

The petitioner is aggrieved against the goods detention notice dated 14.03.2017, wherein the subject matter goods were seized along with the vehicle on the reason set out in the notice.

2. According to the petitioner, they have not violated any rules. Therefore, the goods detention notice is bad in law.

3. Learned Additional Government Pleader appearing for the respondent, based on instructions, submitted that in pursuant to the impugned detention notice dated 14.03.2017, the respondent has issued a notice on 15.03.2017, imposing tax liability at the rate of 5% amounting to Rs.59,085/- and compounding fee of Rs.1,18,170/-. Therefore, he submitted that the petitioner has to comply with such notice.

4. Learned counsel for the petitioner submitted that though the petitioner is not liable to pay any tax and compounding fee, however, for the purpose of getting the goods released immediately, they are wiling to pay one time tax without prejudice to agitate the entire issue before the competent authority by way of revision. Therefore, he submitted that the respondent may be directed to release the goods immediately once the one time tax is paid by the petitioner.

5.Considering the above stated facts and circumstances and considering the submissions made by the learned counsel for the petitioner, this writ petition is disposed of by directing the petitioner to pay one time tax of Rs.59,085/- to the third respondent immediately on receipt of copy of this order, however without prejudice to their contention and rights to be agitated before the revisional authority while challenging the imposition of tax and compound fee. On receipt of such payment of one time tax, the third respondent shall release the goods and vehicle forthwith to the petitioner. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

1 The State of Tamil Nadu
Rep. by its Secretary to Government
Department of Commercial Taxes and
Registration Dept. Fort St. George Chennai
600 009

2 The Commissioner of Commercial
Taxes 2nd Floor Elilagam Chepauk Chennai
600 005

3 The Deputy Commercial Tax
Officer Kandamangalam Check Post Linga
Reddy Palayal Villupuram District.

+1cc to Mr.M. Md. Ibrahim Ali, Advocate, S.R.No.18545

scd(CO)
md(24/03/2017)

W.P.No.6793 of 2017