IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2017

CORAM

THE Hon'ble Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.4949 of 2017
and
WMP No.5179 of 2017

Tvl. Sreevasta Tube Corpn.
Rep. by Managing Director
Mr.C.V.Ravindranath
No.7 Kamaraj Park Street,
Royapuram, Chennai - 600 013 ... PETITIONER

Vs

The Commercial Tax Officer
Roving Squad IV,
Enforcement North,
Chennai - 6. ... RESPONDENT

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari calling for the records on the files of the respondent in G.D.No.1792/16- 17 dated 19.02.2017 and quash the same being illegal invalid and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.S.Kanmani Annamalai
AGP (Taxes)

O R D E R

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. The case of the petitioner is that he is a dealer in Seamless & ERW boilers Tubes and assessee on the files of the Assisstant Commissioner (CT) Broadway Assessment Circle, Chennai - 1 and the TIN No.33900060270. The petitioner purchased goods from local registered dealers and also from other state dealers. The petitioner received a purchase order from registered dealer 'ENEXIO Power Cooling Solutions India Pvt. Ltd.' in Chennai to supply pipe materials and the buyer

instructed to deliver the consignment at 'Okkur Village' in Nagapattinam District. The goods were transported with Invoice Nos.36712 to 36720 dated 18.02.2017 alongwith delivery challans and LR copies in Vehicle No.TN 21 BZ 0564. The respondent intercepted the vehicle and the driver explained that it is only a local sale and produced all the documents. However, without any due verification, the respondent issued detention notice in G.D.No.1792 /16-17 dated 19.02.2017 and stated that the goods moved without sales invoice and advised to pay tax and compounding fee.

3. The learned counsel for the petitioner submitted that the respondent may be directed to release the consignment and vehicle on payment of one time tax.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), taking notice for the respondent, submitted that on payment of one time tax by the petitioner, the respondent may be directed to release the goods and the consignment.

5. Having regard to the submissions made by the learned counsel on either side, since the repsondent had passed the impugned order without giving an opportunity of hearing to the petiitoner, I am of the considered view that the impugned order is liable to be set aside and accordingly, the same is set aside. The petitioner is directed to pay the one time tax amount of Rs.95,033/- (Rupees Ninety Five Thousand and Thirty Three only) before the respondent and on payment of the said sum of Rs.95,033/-, the respondent is directed to release the goods and vehicle to the petitioner forthwith. It is made clear that the respondent shall proceed with the matter and pass orders on merits and in accordance with law, taking into consideration the objections and the documents, filed by the petitioner and after affording due opportunity to the petitioner. With these observations, the writ petition is disposed of. No costs. Consequently, connected MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rgr

To

The Commercial Tax Officer
Roving Squad IV,
Enforcement North,
Chennai - 6.

+1 cc to Mr.D.Vijayakumar Advocate sr 12768
+1 cc to Special Government Pleader High Court Madras
sr 13081

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