IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.33034 of 2017
and
WMP Nos.36406 and 36440 of 2017

Ramanand Kidarnath International,
Rep. by its Partner,
A-102, Dipti Classic,
32/34, Suren Road, Andheri (East),
Mumbai 400 093. [PETITIONER]

Vs

The Commercial Tax Officer,
Roving Squad-IV,
Enforcement (North), Greams Road,
Chennai 600 006. [RESPONDENT]

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified mandamus to call for the entire records of the respondent in G.D.No.1729/16-17 dated 20.12.2016 and quash the order passed therein and direct the respondent to refund the sum of Rs.4,00,000/- collected from the petitioner.

For Petitioner: Mr.Sundareswaran
for Mr.A.P.Srinivas

For Respondent : Mr.K.Venkatesan
Government Advocate

O R D E R

Mr.K.Venkatesan, learned Government Advocate takes notice for the respondent. By consent, the main writ petition itself is taken up for final disposal at the stage of admission.

2.The petitioner is aggrieved against the proceedings of the respondent dated 20.12.2016 issued in G.D.No.1729/16-17. Consequently, the petitioner seeks for a direction to the respondent to refund a sum of Rs.4 lakhs collected from the petitioner.

3.Heard Mr.Sundaresan, learned counsel for the petitioner and Mr.K.Venkatesan, learned Government Advocate appearing for the respondent.

4.It is seen that the subject matter goods have been intercepted and detained on 20.12.2016, by issuing the impugned detention notice. It is stated that the petitioner has paid a sum of Rs.4 lakhs, as demanded in the notice, only for the purpose of getting the goods released and however, without prejudice to the right to agitate against the demand. Now, the present writ petition is filed before this court questioning the demand made in the impugned notice by raising very many grounds on merits of the matter.

5.Admittedly, as against the impugned proceedings, the petitioner has statutory right of revision before the competent revisional authority. Therefore, this Court is of the view that the petitioner, instead of approaching such Revisional Authority, who is also a fact finding authority and agitate the matter, filed the present writ petition, which in my considered view, is not maintainable. As the goods have already been released after receipt of the disputed payment, it is for the petitioner to work out his remedy before the competent authority. Accordingly, this writ petition is disposed of, without expressing any view on the merits of the claim made by the petitioner, however, by granting liberty to the petitioner to file statutory revision before the competent authority within a period of two weeks from the date of receipt of a copy of this order. If any such revision is filed, such competent Authority will look into the same without reference to the period of limitation and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of the revision.

Registry is directed to return all the originals to the petitioner forthwith. No costs. The connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

vri

To

The Commercial Tax Officer,
Roving Squad-IV,
Enforcement (North), Greams Road,
Chennai 600 006.

+ 1 cc to Mr.A.P.Srinivas Advocate,SR.90695

+ 1 cc to The Special Govt.Pleader, SR.90760

W.P.No.33034 of 2017

nr 10/01/2018