IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.12.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33516 of 2017
and W.M.P.No.37019 of 2017

Tvl.RJ Brewing Solutions LLP
F-234, UGF, Sushant Shopping Arcade
Sushant Lok-1, Gurgaon - 122 002,
Haryana Rep.by its Authorized Signatory
Arun Kumar Verma. ...Petitioner

Vs.

1.The Joint Commissioner (CT)
Chennai (North) Division
Greams Road, Chennai 600 006.

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

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the impugned notice of the second respondent dated 21.11.2017 in G.D.No.1772 & 1773/2016-17 RS-IV (North) and to quash the same, insofar as the same been issued without jurisdiction, authority of law, and against the provisions of law and in total violation to the principles of natural justice and the same is highly premature.

For Petitioner : Mr.N.Vishwanathan

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

O R D E R

Heard Mr.N.Vishwanathan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent.

2.The petitioner is before this Court challenging a notice dated 21.11.2017. In my considered opinion, the petitioner can have no grievance as against the impugned notice since the second respondent has only called for information from the petitioner if they have filed any revision after the goods which were transported by the petitioner were detained pursuant to the goods detention notice dated 29.01.2017. The notice further states that if the petitioner has not filed a revision he has to pay the balance amount immediately. The petitioner's contention is that they have not carried on any business within the State of Tamil Nadu and after the goods were detained, they had approached this Court and filed a writ petition in W.P.Nos.2602 and 2603 of 2017 which were disposed of by order dated 03.02.2017 by directing the petitioner to furnish bank grantee for Rs.2,80,000/- and goods were directed to be released. It was observed in the order that if compounding fee is levied, the petitioner will have a right to challenge the same. The petitioner's case is that till date no order has been passed levying compound fee and that matter stands at the stage of goods detention notice. The petitioner instead of furnishing bank grantee paid cash of Rs.2,90,000/-. The petitioner's further case is that on a wrong advice they have taken registration under the provision of TNVAT Act in the State of Tamil Nadu and the consultant filed a revision petition dated 28.07.2017 which was dismissed by the Joint Commissioner by order dated 01.08.2017 stating that the revision petition is barred by limitation.

3.Considering the facts and circumstances, this Court is of the view that the petitioner should give a reply to the notice dated 21.11.2017 issued by the second respondent placing all facts and on verification, if it is found that the second respondent has not passed the compounding order, it is well open to the second respondent to pass such order within a period of two weeks from the date on which the petitioner submits the reply. The petitioner shall submit a reply notice to the impugned notice within a period of one week from the date of receipt of copy of this order. Till then, the amount of Rs.2,90,000/- which was paid by the petitioner shall be retained as such and abide by the orders to be passed by the second respondent.

4.Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Deputy Registrar(CS)

//True Copy//
Sub Assistant Registrar

dna/cse

To

1.The Joint Commissioner (CT)
Chennai (North) Division
Greams Road, Chennai 600 006.

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

+ 1 cc to Special Government Pleader Sr.91915
+ 1 cc to Mr.N. Viswanathan, Advocate Sr.91759

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KK(CO)
EU(22/01/2018)