

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.04.2017

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.1430 of 2017
and
WMP.Nos.1363 and 1364 of 2017

M/s.VPR Mining Infrastructure Limited,
Rep. By its Manager,
Dr.No.8-2-293/82/A/1259,
3rd Floor, Road No.36,
Jubilee Hills,
Hyderabad 500 033.Petitioner

Vs

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

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari to call for the records of the impugned proceedings in compounding notice in O.R.No.6232/2016-17/G.D.Notice No.1744/16-17 dated 12.01.2017 by the respondent herein, quash the same.

For petitioner ... Mrs.Aparna Nandakumar
For respondent ... Mr. K. Venkatesh, GA

ORDER

The petitioner is aggrieved against the order dated 12.01.2017, issued by the respondent demanding the compounding fee and one time tax, in pursuant to the detention of the goods followed by the issuance of the goods detention notice.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3.It is submitted by the learned counsel for the petitioner that as against the goods detention notice dated 02.01.2017, a writ petition in W.P.No.731 of 2017 filed by the very same petitioner before this court came to be disposed of on 10.01.2017, directing the respondent to consider the objection

raised by the petitioner and pass a speaking order. Thus, she contended further that the respondent has now passed the impugned order without considering the objection raised by the petitioner. She also further submitted that by way of an interim relief granted by this court, the goods were released on furnishing a bank guarantee to the one time tax value of Rs.16,67,500/-.

4.Learned Government Advocate appearing for the respondent submitted that the impugned order was passed after considering the objections raised by the petitioner and therefore if at all, the petitioner is aggrieved against the said order, they have to agitate the same before the Revisional Authority.

5.Admittedly, as against the order passed by the respondent, a revision lies before the Joint Commissioner (Commercial Tax), Chennai (Central Division). Perusal of the impugned order would show that the same came to be passed in pursuant to the order issued by this court in W.P.No.731 of 2017 dated 10.01.2017, followed by the objections raised by the petitioner dated 11.01.2017. It is also seen that the personal hearing was granted to the petitioner on the very same day viz., 11.01.2017. Therefore, this court is of the view that the petitioner has to agitate the matter before the Revisional Authority, if it is their case that their representation/objections were not considered by the respondent in detail. Perusal of the impugned order indicates that the respondent has dealt with the objection and passed the impugned order. Therefore, the correctness or otherwise of the consideration of such objections touching upon the merits of the matter, has to be gone into by the Revisional Authority and therefore, this Court, at this stage, is not inclined to entertain the present writ petition, more particularly, when the goods were already released subject to the furnishing of the bank guarantee.

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6.Accordingly, this writ petition is disposed of, by granting liberty to file revision before the Revisional Authority, within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall keep the bank guarantee alive, till the revision is disposed of by the Revisional Authority. The Revisional Authority is directed to consider the revision and pass orders on the same on merits and in accordance with law, without reference to the period of

limitation, within four weeks from the date of receipt of the revision from the petitioner. No costs. The connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

vri

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

+1 cc to Special Government Pleader sr 23104
+1 cc to M/s.Aparnanandakumar Advocate sr 23311

W.P.No.1430 of 2017

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