IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.3661 of 2017

M/s.Murugan Earth Movers
Rep. by its Proprietor ... Petitioner

Vs.

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

2 Deputy Commercial Tax Officer
Pethikuppam Check Post,
Gummidipoondi - 601 201. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st Respondent to hear the revision petition filed by the petitioner which was filed three years before under Section 54 of TNVAT Act and pass appropriate orders early and also to direct the second Respondent to send the tax paid particulars for Rs.7,70,300/- to the assessing authority of the petitioner at Tindivanam Circle in this case.

For Petitioner : Mr.C.Baktha Siromoni
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

1.Issue Notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.There are two prayers made in the writ petition.

2.1.First is, that the petitioner's revision petition, pending with the first respondent, be disposed of.

2.2.Second is, that the advance tax, in the sum of

Rs.7,70,300/- and the compounding fee of Rs.2,000/-, collected by the Check Post Officer at the time of detention of the subject “Earth Moving Equipment”, be transmitted to the concerned Assessing Officer.

3.Insofar as the second prayer is concerned, the petitioner seeks to place reliance on Rule 15 (6)(c) of the Tamil Nadu Value Added Tax Rules, 2007 (in short, the Rules).

4.It is submitted by the learned counsel for the petitioner that in terms of the said Rule, the concerned Officer is required to intimate the details of such collection to the concerned Assessing Officer, within three days of such collection.

5.To be noted, the Revision Petition, according to the petitioner, was filed, in or about 28.02.2014. The challenge in the Revision Petition has been made to the levy of tax and the compounding fee, adverted to above.

6.Pertinently, the petitioner obtained release of the “Earth Moving Equipment”, on payment of the aforementioned tax and penalty and, therefore, by virtue of the Revision Petition, the petitioner claims quashing of imposition of tax and penalty and the consequential relief of refund.

7.Mr.Venkatesh, who appears on advance notice, says that, if, a direction is issued by this Court, the needful will be done.

8.Accordingly, the writ petition is disposed of with a direction to the first respondent to hear and pronounce an order in the pending revision petition, as expeditiously as possible, though, not later than eight (8) weeks from the date of receipt of a copy of this order.

8.1.Furthermore, the Check Post Officer shall, in terms of the Rules, send a communication of collection of tax and compounding fee, within three days of receipt of a copy of the order.

9.The writ petition is disposed of, in the aforementioned terms. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2 Deputy Commercial Tax Officer
Pethikuppam Check Post,
Gummidipoondi - 601 201.

+1cc to Mr.E. Bakthasiromoni, Advocate, S.R.No.9779
+1cc to the Spl Government Pleader (Taxes), S.R.No.9586

sk(CO)
md(21/02/2017)

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