IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 20.01.2017
Coram
THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
W.P.No.1570 of 2017

M/s.Lakshmi Envirotech Systems Pvt. Ltd.,
S.F.No.100/6, Kurudampalayam Village,
Vadamadurai Post,
Mettupalayam Road,
Coimbatore-641 017. .. Petitioner

vs.

Deputy Commercial Tax Officer,
Katpadi Check Post,
Vellore District. .. Respondent

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus or any other appropriate writ, direction or order, calling for the records of the respondent herein in his proceedings, in G.D.No.1654/2016-17, dated 04.01.2017, quash the this detention as illegal and contrary to the provisions of the TNVAT Act and further direct the respondent to release the goods detained.

* * *

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Mr.K.Venkatesh,
Government Advocate

ORDER

1. Issue notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondent.

1.1. With the consent of learned counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. This writ petition is directed against the order dated 04.01.2017, passed by the respondent.

2.1. By virtue of the impugned order, the respondent has imposed one time tax in the sum of Rs.4,82,705/-, and also compounding fee equivalent to twice the amount of the tax levied upon the petitioner.

2.2. Consequently, the petitioner has been called upon to pay compounding fee in the sum of Rs.9,65,410/-.

3. Learned counsel for the petitioner says that the subject transaction is an inter-state sale, and therefore, would be liable to tax under the Central Sales Tax Act, 1956.

3.1. According to the learned counsel for the petitioner, no local sale had taken place, and therefore, no tax under the Tamil Nadu Value Added Tax Act, 2006 would be payable.

3.2. However, in order to expedite the release of the detained goods, learned counsel for the petitioner says that the petitioner would pay one time tax in the sum of Rs.4,82,705/-, without prejudice to its rights and contentions.

3.3. Furthermore, learned counsel for the petitioner says that liberty may also be granted to challenge the compounding fee imposed by the respondent.

4. Mr.K.Venkatesh, who appears for the respondent, submits that if, one time tax is paid, the detained goods will be released, forthwith.

5. Accordingly, the writ petition is disposed of with a direction that, if, the petitioner, were to deposit the one tax, as indicated in the impugned order, i.e., a sum of Rs.4,82,705/-, the respondent will release the detained goods forthwith. This, though, would be without prejudice to the rights and contentions of the petitioner, both qua tax and the compounding fee, imposed via the impugned order. There shall, however, be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Deputy Commercial Tax Officer,
Katpadi Check Post,
Vellore District.

+1 cc to M/s.C.Bakthasironmani Advocate sr 3927
+1 cc to Special Government Pleader(Tax) High Court Madras sr 4029

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