IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.1574 of 2017

and WMP No.1520 of 2017

Tvl.Josni Enterprises,
rep. by its Proprietor
Mr.A.Rex Ratna Kumar,
O.No.102, N.No.200, Prakasam Salai,
Broadway, Chennai-108. .. Petitioner

vs.

The Deputy Commercial Tax Officer,
Ranipet (IN) Checkpost,
Serkadu, Ranipet,
Vellore District. .. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records on the files of the respondent in G.D.No.2265/2016-17, dated 07.01.2017, and quash the same being illegal, invalid, and violated the principles of natural justice and contrary to the law or issue such other writ, direction.

For Petitioner : Mr.D.Vijayakumar
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 goods detention notice dated 07.01.2017, passed by the respondent.

2.1. By virtue of the said notice, the petitioner has been called upon to pay tax in the sum of Rs.30,818/- with compounding fee equivalent to twice the amount of the tax.

2.2. Consequently, the compounding fee has been pegged at Rs.61,636/-.

3. A perusal of the impugned notice would show that the respondent has detained the subject goods, as the transporter did not have in his possession the electronic form JJ, at the time of interception of the goods at the check post.

4. Learned counsel for the petitioner says that there is no evasion of tax, as alleged or at all, and that, the subject goods were bought from a dealer by the name M/s.Sharp Engineers, located in the State of Gujarat. It is further stated that the subject goods moved pursuant to the generation of a Tax Invoice No.05456, dated 31.12.2016.

5. It is the petitioner's stand that the transaction in issue is a genuine, and that, there is no evasion of tax, as is sought to be alleged via the impugned notice.

5.1. Furthermore, learned counsel for the petitioner says that in order to expedite the release of the detained goods, the petitioner would pay the one time tax, equivalent to a sum of Rs.30,818/-, as indicated in the impugned notice, with a right to challenge its imposition as well as the imposition of compounding fee.

6. Mr.K.Venkatesh, who appears for the respondent, submits that if, one time tax is paid, the subject goods would be released to the petitioner.

7. Accordingly, the writ petition is disposed of with a direction to the respondent to release the subject goods to the petitioner, upon deposit of one time tax equivalent to Rs.30,818/-. The deposit of the tax, however, will be without prejudice to the petitioner's right and contention, to challenge its imposition. Furthermore, the petitioner will also have liberty to challenge the imposition of compounding fee, as indicated in the impugned order.

8. Resultantly, pending application shall stand closed. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer,
Ranipet (IN) Checkpost,
Serkadu, Ranipet,
Vellore District.

+1cc to Mr.D. Vijayakumar, Advocate, S.R.No.3981
+1cc to the Government Pleader, S.R.No.4030

LSR(CO)
md(20/01/2017)

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