IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.10.2017

CORAM

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.No.26590 of 2017

M/s.Shreeji Machine
Rep. By its Authorised Signatory ... Petitioner

Vs.

Commercial Tax Officer
Enforcement, Roving Squad
Thiruvannamalai ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent in his proceedings in G.D.No.288/2017-18 dated 13.06.2017 and to direct the respondent to refund the taxes collected Rs.3,71,544/- much against the provisions of the Tamil Nadu Value Added Tax Act 2006.

For Petitioner : M/s.C.Bakthasiromoni

For Respondent : Mrs.Narmadha Sampath
Special Government Pleader

O R D E R

Heard Mr.C.Bakthasiromoni, the learned counsel for the petitioner and Mrs.Narmadha Sampath, the learned Special Government Pleader, accepting notice on behalf of the respondent. With the consent of the learned counsel appearing on either side, this Writ Petition is taken up for disposal.

2. The petitioner seeks for a direction upon the respondent to refund the tax collected from them pursuant to a compounding notice, dated 13.06.2017.

3. The petitioner's case is that, the machinery, which was brought by them from Gujarat, was intended for being displayed in an exhibition held at Chennai Trade Centre, and not for sale within the State. The vehicle was intercepted and detention order was passed, and subsequently, a compounding notice was issued to the petitioner, levying one time tax, and compounding

fee. The petitioner would submit that, since the machinery was required to be displayed in the exhibition, they had paid compounding fee of Rs.3,71,544/- and got the machinery released, and after the machinery was exhibited in the Exhibition, it is stated to have been taken back to Gujarat. Now, the petitioner seeks for refund of one time tax paid by them.

4. As long as the petitioner has not succeeded in setting aside the compounding notice, no writ of mandamus, as sought for by the petitioner can be issued. Therefore, the relief sought for, in this Writ Petition cannot be granted at this juncture. However, the petitioner is not without any remedy, as under Section 54 of Tamil Nadu Value Added Tax Act 2006, the petitioner has an alternate remedy to file Revision Petition against the compounding order before the concerned Joint Commissioner.

5. The learned counsel appearing for the petitioner submits that the petitioner may be granted liberty to go before the Joint Commissioner, and the Court may fix a time limit, within which, such Revision Petition can be filed.

6. I have heard the learned Special Government Pleader on the above submission.

7. Considering the facts and circumstances of the case, while declining to grant the relief sought for by the petitioner, in this Writ Petition, liberty is granted to the petitioner to file Revision Petition as against the compounding order passed against them before the Joint Commissioner within 30 days from the date of receipt of a copy of this order. As and when such Revision Petition is filed, the Revisional Authority shall entertain the same without reference to limitation aspect, and decide the matter on merits and in accordance with law.

8. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

kas/sd

To

Commercial Tax Officer
Enforcement, Roving Squad
Thiruvannamalai

+1cc to M/s.C.Bakthasiromoni, Advocate in sr.no.73777

W.P.No.26590 of 2017

SV(CO)
NR 08/11/2017