

In the High Court of Judicature at Madras

Dated: 05.01.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.270 of 2017

& WMP No.288 of 2017

Gautam Dyes & Chemicals Co.,
rep. by its Managing Partner
Akshay Rathore
No.90/189, Govindappa Naicken Street,
Sowcarpet, Chennai - 600 001.

..... Petitioner

Vs.

Commissioner Tax Officer,
Roving Squad - IV,
Enforcement [North], Chennai,
at C.T. Buildings, Greams Road,
Chennai - 600 006.

..... Respondent

PETITION under Article 226 of The Constitution of India
praying for the issuance of Writ of Certiorari to call for the
records in GD No.1737/2015-2016 dated 27.12.2016 issued by the
first respondent and quash the same as arbitrary and illegal.

For Petitioner : Mr.K.Mohanamurali

सतयमेव जयते
O R D E R

1. This Writ Petition is directed against the detention
notice dated 27.12.2016.

2. The petitioner's case is that High Sea Sales took place
between itself and a company, by the name of STAHL India Private
Limited.

2.1. The detention notice, though, proceeds on the basis
that High Sea Sales did not take place for the reason that the
date of the sale invoice precedes the date of the agreement of
High Sea Sales.

2.2. The respondent, thus, has concluded, that the subject
transaction is not eligible for exemption under Section 5(2) of
the Central Sales Tax Act.

3. Counsel for the petitioner asserts that High Sea Sale has taken in place and that ownership in goods has passed on to STAHL India Private Limited.

3.1. According to me, if that is the position, then, STAHL India Private Limited should assail the detention notice.

3.2. Counsel for the petitioner says that the reason that the petitioner, i.e., the seller has approached this Court, is that, the detention notice has been issued to it and not to the buyer, i.e., STAHL India Private Limited.

4. In my view, this circumstance, by itself, will not give any locus to the petitioner, i.e., seller, to impugn the detention notice, if, ownership in the goods has passed on to STAHL India Private Limited.

5. At this stage, counsel for the petitioner seeks liberty to withdraw the Writ Petition.

6. Accordingly, the Writ Petition and the connected Miscellaneous Petition are dismissed as withdrawn.

6.1. Needless to say, if, the buyer, i.e., STAHL India Private Limited approaches the Court, the Court would pass requisite orders, albeit, in accordance with law.

7. Registry is directed to return, forthwith, the original impugned order to the counsel for the petitioner.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
Commissioner Tax Officer,
Roving Squad - IV,
Enforcement [North], Chennai,
at C.T. Buildings, Greams Road,
Chennai - 600 006.

+1cc to Mr.K. Mohanamurali, Advocate, S.R.No.950
+1cc to the Spl Government Pleader Taxes, S.R.No.1157

pvs (CO)
md(07/02/2017)

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