IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.1701 of 2017 and

WMP.No.1672 of 2017

Tvl.K L F Nirmal Industries (P) Limited
rep. by its Managing Director
Paul France,
No.7/143 and 145,
Nichampalayam P.O.-638 055,
Tingalur, Perundurai Taluk,
Erode District. ... Petitioner

Vs.

1. The Commercial Tax Officer,
   Perundurai Assessment Circle,
   Perundurai.

2. The Deputy Commercial Tax Officer,
   Katpadi Checkpost, Katpadi. ... Respondents

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 2nd respondent in G.D.No.1656/2016-17 dated 12.01.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.S.Kanmani Annamalai, Addl. Govt. Pleader

O R D E R

1. Notice in the Writ Petition was issued on 24.01.2017.

1.1. Mr.Kanmani Annamalai, learned Additional Government Pleader, who had accepted notice on behalf of the respondents, had sought a short accommodation to take instructions in the matter.

2. To be noted, the petitioner has approached this Court

by way of the present writ petition to assail the Goods Detention Notice dated 12.01.2017. The reason the subject goods were detained is discernible from the Goods Detention Notice dated 12.01.2017.

3. A reading of the Goods Detention Notice dated 12.01.2017 would show that the subject goods were detained, as they were not accompanied by On line Form JJ and LL.

4. The petitioner's case, is that, the web portal of the Department was not functioning and therefore, on line forms could not be downloaded. The petitioner, instead, had presented before the respondents, as it appears, forms, which were generated manually. It appears that the respondents were not willing to accept forms generated manually.

5. It is in these circumstances, that I had asked Mr.Kanmani Annamalai, learned Additional Government Pleader, to ascertain what was the ground reality and, accordingly, revert with appropriate instructions in that behalf.

6. Mr.Kanmani Annamalai, the learned Additional Government Pleader confirms that the web portal of the Department was not functioning during the relevant period. It is, however, the submission of the learned counsel that the forms generated manually were defective. Having said so, Mr.Kanmani Annamalai, however, concedes that this is not a case where the provision of Section 72(1)(a) of the TNVAT, 2006 could have been invoked.

7. The record shows that the petitioner, after being served with the Goods Detention Notice dated 12.01.2017, was also, served with a Compounding Notice of even date, whereby, tax and compounding fees were demanded.

8. The tax demanded from the petitioner, is a sum of Rs.1,07,580/-, while compounding the fees imposed is pegged at Rs.2,15,160/-.

8.1. Furthermore, the record shows that it is the petitioner's case that the subject goods, which comprise of edible coconut oil, were being transferred from its branch, located at Perundurai, Erode District to its branch in Bhuvaneswar, in the State of Orissa.

9. The petitioner, thus, avers, that this was a case of a stock transfer from one branch to another and that no local sale was involved. In other words, the petitioner says that the respondents had no jurisdiction to detain the goods and/or to impose tax or compounding fee.

10. Mr.Kanmani Annamalai, learned Additional Government Pleader says that given the fact that the web portal of the Department was not functioning during the relevant period, in the peculiar facts and circumstances of the case, the detained goods could be released upon payment of nominal compounding fee of Rs.2000/- as prescribed under 72(1)(b) of the TNVAT Act, 2006.

10.1. The statement made by Mr.Annamalai is taken on record.

11. Accordingly, the Writ Petition is disposed of with a direction to the respondents to release the detained goods along with the subject lorry upon payment of compounding fee of Rs.2,000/- (Rupees Two Thousand Only). Consequently, connected Miscellaneous Petition is also closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsi/sl

To

1. The Commercial Tax Officer,
   Perundurai Assessment Circle,
   Perundurai.

2. The Deputy Commercial Tax Officer,
   Katpadi Checkpost, Katpadi.

+1cc to Mr.R. Senniappan, Advocate, S.R.No.4693

md(25/01/2017)

W.P.No.1701 of 2017