IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1742 of 2017
and
W.M.P.No.1726 of 2017

Revathi Industries (Revathi Enterprises),
represented by its Partner,
R.Srinivasan,
139, Kalidas Road, Coimbatore. ... Petitioner

Vs

1. The Deputy Commercial Tax Officer,
   K.G.Chavadi (IN), Roving Squad,
   Coimbatore.

2. The Assistant Commissioner (CT),
   Ram Nagar Circle,
   Coimbatore. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the first respondent herein in G.D.R.No.41094, dated 29.12.2016 and quashing the same.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.K.Venkatesh,
Government Advocate

ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2.With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

3.The petitioner has challenged the Goods Detention Notice as well as the demand for payment of tax on the goods transported by them from Punjab. The only reason for detaining the goods is that the goods were not accompanied by Form-JJ.

4.It cannot be disputed by the revenue that the Principal Secretary and Commissioner of Commercial Taxes has issued a Circular dated 17.07.2014 in Circular No.33 of 2014 in which instruction has been given to the effect that the movement of goods accompanied with valid invoice satisfies the provisions of Section 68 of the Tamil Nadu Value Added Tax Act ("TNVAT Act" in short) and consequently there is no offence falling under Section 71(5)(a) of the TNVAT Act. It has been further informed that composition of offence under Section 72(1)(a) of the TNVAT Act is possible only in the case of the dealer's failure to pay or attempting to evade or evasion of any tax payable under the TNVAT Act. The Circular if applied to the case on hand, it has to be held that there is no justification in the detention of consignment, since it was admittedly accompanied by sale invoice. In other words, except Form-JJ, there were other records to show that the transaction was done by the petitioner with the dealer from Punjab. Thus, the impugned notice is not sustainable under law.

5.Accordingly, the writ petition is allowed and the impugned notice is quashed. No costs. Consequently, the connected miscellaneous petition is closed. Since the goods in question were released on payment of one time tax, the said tax shall be adjusted against the regular assessment made against the petitioner by their assessing officer.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Deputy Commercial Tax Officer,
   K.G.Chavadi (IN), Roving Squad,
   Coimbatore.

2. The Assistant Commissioner (CT),
   Ram Nagar Circle, Coimbatore.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.53219
+1cc to the Government Pleader, S.R.No.54003

W.P.No.1742 of 2017
and
W.M.P.No.1726 of 2017

PVS(CO)
CA(05/09/2017)