IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.2763 of 2017
And
W.M.P.No.2704 of 2017

JSW Steel Limited
represented by its Asst. General Manager ... Petitioner

Vs.

The Deputy Commercial Tax Officer
Kandmangalam Check Post
@ Lingareddipalyam. ... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in his Proceedings in Goods Detention Notice No.3748 dated 29.01.2017 and consequential Compounding Notice in G.D. No.3748/ 2016-2017 dated 31.01.2017 and quash the same and direct the respondent to release the goods.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

1.Issue Notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.By virtue of this writ petition, challenge is laid to the goods detention notice dated 29.01.2017 and the consequential compounding notice dated 31.01.2017.

3.The record shows that the goods were detained primarily on account of the variation in the weight concerning the detained goods as reflected in the invoice and in Form – JJ as against that which, stood indicated in the e-transit pass (i.e., Form – LL).

3.1.The weight shown in the invoice and Form – JJ, according to the respondent, was 33,050 Kgs, whereas, the weight shown in the e-transit pass (i.e., Form – LL) was 23,050 Kgs. Since, there was a variation in weight, the said goods are detained. In the impugned compounding notice, the petitioner has been called upon to pay one time tax equal to a sum of Rs.1,10,492/-, with compounding fee amounting to Rs.2,20,984/-.

4.Learned counsel for the petitioner says that the subject transaction was an inter-state sale of goods and hence, the requisite CST had already been paid. The submission made on behalf of the petitioner, is that, variation in weight occurred, inadvertently, and that, if regard had been had to the other documents, this discrepancy would have come to light.

4.1. Learned counsel, however, says that de hors the submission made above and, in order to expedite the release of detained goods, the petitioner, is willing to pay one time tax, albeit, without prejudice to its rights and contentions.

4.2. It is further submitted that the petitioner would also like to have the liberty to challenge as well, the compounding fee levied by the respondent.

5.Mr.Venkatesh, who appears for the respondent says that, if, one time tax is paid, the detained goods could be released to the petitioner.

6.I have heard the learned counsels appearing for the parties and perused the record.

7.In view of the submissions made by both counsels before me, I am inclined to direct the respondent to release the detained goods upon payment of one time tax.

8.It is made clear that payment of one time tax would not come in the way of the petitioner challenging either, the imposition of tax, or, the compounding fee, levied by the respondent. Needless to say, the challenge, if any, would be made, in accordance with law.

9.The writ petition is disposed of in the aforesaid terms. Consequently, the connected pending application is also closed. However, there shall be no order as to costs.

06.02.2017

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Index: Yes/ No
Internet: Yes/ No

Note:

1. The Registry will handover the original impugned orders – original documents, appended with the petition to the counsel for the petitioner upon keeping the attested copy of the same on record.
2. Issue order copy on 06.02.2017.

To

The Deputy Commercial Tax Officer

Kandmangalam Check Post
@ Lingareddipalyam.

RAJIV SHAKDHER,J.
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