IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 25.01.2017
Coram
THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
W.P.No.1766 of 2017
and WMP No.1750 of 2017

M/s.Rajaram & Co.,
represented by its General Manager,
Mr.M.D.Karunakaran,
25/14, Canara Bank Colony,
Saligramam,
Chennai-600 093. .. Petitioner

vs.

1. The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi.

2. The Assistant Commissioner (CT),
J.J.Nagar Assessment Circle,
Chennai. .. Respondents

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in G.D.No.1658/2016-2017, dated 17.01.2017, and the consequential proceeding in G.D.No.1658/2016-2017, dated 20.01.2017, and quash the same and further direct the first respondent to release the detained consignment of G.I. Sheets (Declared Goods) without insisting on one time tax and two times tax as compounding fees.

* * *

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

ORDER

1. Issue notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondents.

1.1. With the consent of the learned counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. By virtue of the writ petition, challenge is laid to order dated 17.01.2017 and the consequential proceedings, which are encapsulated in the order, dated 20.01.2017.

3. By virtue of the impugned order, the petitioner has been called upon to pay one time tax equivalent to a sum of Rs.19,800/- and compounding fee equivalent to twice the amount of the tax demanded.

4. Briefly, it is the petitioner's case that while a consignment of Iron and Steel was being transferred from its branch located in the State of Tamil Nadu to Nellore in Andhra Pradesh, it was illegally intercepted at the Katpadi Checkpost on the ground that it was not accompanied by E-transit pass.

4.1. It is the case of the petitioner that Form LL, in which, the application for issuance of transit pass is made, was downloaded from the website, though after the goods had been detained, and was, accordingly, furnished to the respondents. The petitioner, thus, avers that, despite, Form LL having been furnished, subject goods have not been released.

5. Furthermore, learned counsel for the petitioner says that in order to hasten the release of the subject goods, the petitioner is willing to pay one time tax, as indicated in the impugned order, albeit, without prejudice to its rights and contentions.

6. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who appears for the respondents, says that, if, one time tax is paid, the subject goods would be released to the petitioner.

7. Having heard the learned counsel for the parties and perused the record, in my view, the subject goods can be released to the petitioner, on payment of one time tax equivalent to Rs.19,800/-.

7.1. It is made clear though, that, the payment of one time tax, if made, would be without prejudice to the rights and contentions of the petitioner.

7.2. The petitioner, hereafter, will have liberty to challenge not only the imposition of tax, but also the compounding fee imposed, which is pegged at Rs.39,600/-, albeit, by taking recourse to an appropriate remedy as prescribed in law.

8. The writ petition is disposed of in terms of the aforesaid direction. Consequently, pending application shall stand closed. There shall, however, be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Deputy Commercial Tax Officer,
   Katpadi Check Post,
   Katpadi.

2. The Assistant Commissioner (CT),
   J.J.Nagar Assessment Circle,
   Chennai.

+1 cc to Mr.P.Rajkumar Advocate sr 4660
+1 cc to Special Government Pleader sr 4876

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