In the High Court of Judicature at Madras

Dated: 04.01.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.178 of 2017

& WMP Nos.173 and 174 of 2017

Adhar Digital Vision Pvt. Limited,
rep. by its Managing Director,
Mr.P.Baskar
.... Petitioner

Vs.

1. The State of Tamilnadu
by its Secretary,
Commercial Tax Department,
Fort St. George, Chennai - 9.

2. The Joint Commissioner (CT),
Chennai (North) Division
III Floor, PAPJM Buildings,
No.1, Greams Road, Chennai - 6.

3. The Commercial Tax Officer,
Roving Squad, V,
Enforcement (North), Chennai - 6.
.... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the second respondent in R.P.89/2016 dated 20.12.2016 and to quash the same.

For Petitioner : Mr.J.Srinivasa Mohan
For Respondents: Mr.K.Venkatesh, GA

O R D E R

1. Issue notice. Mr.K.Venkatesh, accepts notice on behalf of respondents.

2. After some arguments, learned counsel for the petitioner says that since, a remedy by way of a second revision, as provided under Section 57 of the Tamil Nadu Value Added Tax Act,

2006, is available, the petitioner will take its chance, qua the impugned order, by triggering the said remedy.

2.1. Counsel for the petitioner, however, seeks two (2) directions: first, two (2) out of three (3) vehicles, which carried the set-top boxes and are in the custody of the respondents, be released. In this connection, learned counsel further says that, if, storage space is required, the petitioner can provide such space to the respondents for storing the set-top boxes.

2.2. Second, which is a direction sought in the alternative, that the, set-top boxes be released upon payment of 50% of the tax imposed and for the remaining 50% of the tax, the petitioner be permitted to furnish a bank guarantee.

3. Having regard to the aforesaid, the Writ Petition is disposed of with liberty to the petitioner to approach the concerned authority by way of a second revision petition.

3.1. The respondents, will, however, forthwith release the subject vehicles, which hold the set-top boxes.

4. In so far as the other direction is concerned, that is, with regard to release of set-top boxes upon payment of tax, I have put to Mr.Venkatesh, who appears on advance notice, as to whether the mode and manner of payment of tax, as indicated above, would be acceptable to the respondents.

4.1. Mr.Venkatesh says, that if, the mode and manner, as suggested by the petitioner is taken forward, in point of fact, the respondents would release the subject set-top boxes.

5. Accordingly, the respondents are directed to release the set-top boxes as well, in case, 50% of the tax is deposited by the petitioner and, qua the balance 50% of the tax, bank guarantee of a Nationalised Bank, is furnished.

5.1. In the event, this option is not exercised by the petitioner, respondents, if they so desire, shall call upon the petitioner to provide a storage space for the set-top boxes.

5.2. Needless to say, in such eventuality, the petitioner will hold the set-top boxes in trust for the respondents, subject to further directions, if any, that may be issued by an appropriate forum in that behalf.

6. Resultantly, connected Miscellaneous Petitions are closed. However, there will be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. The Secretary, State of Tamilnadu
Commercial Tax Department, Fort St. George, Chennai - 9.

2. The Joint Commissioner (CT), Chennai (North) Division
III Floor, PAPJM Buildings, No.1, Greams Road, Chennai - 6.

3. The Commercial Tax Officer,
Roving Squad, V, Enforcement (North), Chennai - 6.

+2cc to Mr.J. Srinivasa Mohan, Advocate, S.R.No.561

(CO)
MD(04/01/2017)

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