IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVI CHANDRA BAABU

WP.No.1785 of 2017

& WMP.No.1769 of 2017

M/s.Kavi Logistics,
Rep. by its Manager G.Karthi,
No.20-A, I Cross, Periyasamy Layout,
Rathinapuri,
Coimbatore-641 027. .. Petitioner

Vs

1.The Check Post Officer,
Commercial Taxes Check Post,
Palakkad Main Road,
Gopalapuram,
Pollachi Taluk,
Coimbatore District.

2.M/s. Pulkit Metal Private Limited,
RS.No.95/2, 3 & 4,
Eripakkam Village,
Netapakkam Commune,
Puducherry. .. Respondents

(R-2 is impleaded as per order
dated 25.01.2017 by RSAJ in
WP.No.1785 of 2017).

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings in GDR No.854/2016-2017 dated 08.01.2017 and quash the same as illegal and against the provisions of law.

For Petitioner	:	Mr.S.Rajasekar
For R1	:	Mr.S.Kanmani Annamalai, AGP (T)
For R2	:	No appearance

ORDER

This Writ Petition is filed challenging the proceedings dated 08.01.2017 detaining the goods and also directing the consignor to show cause for compounding of offence punishable under Section 71 (5) (a) of the TNVAT Act 2006.

2.The petitioner is the transporter of the goods detained. The impugned notice was issued on the driver of the petitioner namely, one Nagaraj. When this matter was taken up earlier by this Court on 25.01.2017, the petitioner came forward to make one time tax payment to expedite the release of the goods and accordingly, an order was passed on the same day, directing the respondent to release the subject matter of the goods to the petitioner immediately on payment of one time tax, however, without prejudice to the rights and contentions of the petitioner. This Court has also directed the owner of the subject goods to be made as a party/respondent in this writ petition and accordingly, the said owner is impleaded as a second respondent in this Writ Petition.

3.Notice issued to the second respondent by this Court was also served. However, when this matter is taken up for hearing today, there is no representation for the second respondent either in person or through counsel. The name of the second respondent is printed in the cause list.

4. It is represented by both the sides that in pursuant to the payment of one time tax, the goods were released.

5.The learned counsel for the petitioner submits that as the said payment of one time tax was made without prejudice to the rights and contentions of the petitioner, they may be given liberty to challenge such imposition of tax and compounding fee before the revisional authority. It is needless to say that if the said payment of one time tax was made by the petitioner without prejudice to their rights and contentions, it is always open to them to challenge the imposition of tax and compounding fee before the revisional authority either by themselves or the second respondent herein, who is the owner of the goods. Granting such liberty and also considering the fact that the goods have already been released, this writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Check Post Officer,
Commercial Taxes Check Post,
Palakkad Main Road,
Gopalapuram,
Pollachi Taluk,
Coimbatore District.

+1 CC to Mr.R.HEMALATHA, Advocate Sr.No.17293

+1 CC to Government Pleader, High Court, Chennai Sr.No.17269

WP.No. 1785 of 2017

KJ(CO)
KP(11/04/2017)