IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.1847 of 2017
and WMP No.1844 of 2017

Multibase India Limited
rep. by its Authorised Signatory
Kirtikumar Solanki,
No.74/5-6, Industrial Estate, Village Kadiya,
Daman - 396 210. ... Petitioner

vs.

The Deputy Commercial Tax Officer,
Ranipet (IN) Check Post Serkadu,
Ranipet - 632 106. ... Respondent

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 notice of the respondent issued in G.D.No.2247/2016-2017, dated 30.12.2016, and quash the same and further direct the respondent to release the consignment at once.

For Petitioner : Mr.R.Senniyappan,
for Mr.N.Murali

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 respondent.

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 30.12.2016.

2.1. Via the impugned order, the petitioner has been directed to pay one time tax, equivalent to a sum of Rs.1,10,969/- and compounding fee, equivalent to twice the amount of the tax demanded, i.e., Rs.2,21,938/-.

3. The petitioner, prior to the impugned notice, was also served with the Goods Detention Notice of even date, i.e., 30.12.2016.

3.1. The record shows that the petitioner's goods, while being ferried, via a vehicle bearing registration No.TN 25 AQ 2729, from Daman to Chennai, were detained at the Ranipet Checkpost, on 30.12.2016.

3.2. The reason for detention, as is discernible from the impugned order, is that the goods were not accompanied by an inward way bill.

4. Learned counsel for the petitioner says that even though, the inward way bill was produced, after passing of the detention order, i.e., on 03.01.2017, the respondent has not released the subject goods.

4.1 Learned counsel says that in order to avoid further delay, the petitioner is willing to pay the one time tax, as indicated in the impugned order, albeit, without prejudice to its rights and contentions.

4.2. Learned counsel says that the petitioner would also want to seek liberty to challenge, not only the one time tax, but also, the compounding fee levied via the impugned order.

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

6. Accordingly, the respondent is directed to release the subject goods along with aforementioned vehicle, forthwith, upon payment of one time tax equivalent to Rs.1,10,969/-.

6.1. 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.

6.2. The petitioner, hereafter, will have liberty to challenge not only tax imposed, but also the compounding fee levied, albeit, in accordance with law, by taking recourse to an appropriate remedy.

7. 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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

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

+1cc to Mr.N.Murali, Advocate sr.4707
+1cc to Special Government Pleader Sr.4874

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