IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM:

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 18530 of 2017
and
W.M.P.No.20093 of 2017.

M/s. Vaishnavi Overseas,
Rep by its Authorized Signatory
M3, Second Floor, N.S.Road,
Kolkata, West Bengal. ... Petitioner

Vs.

Commercial Tax Officer,
Roving Squad - III,
Enforcement (Central),
Greams Road,
Chennai - 600 006. ...Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, or any other appropriate writ, direction or order calling for the records of the respondent in his proceedings, in G.D.No.1131/R.S-111/C/2016-17 dated 21.02.2017 and quash this detention order as illegal and contrary to the provisions of the TNVAT Act and CST Act and direct the respondent to release the goods.

For Petitioner : Mr. C.Bakthasiromoni.

For Respondent : Mr. K. Venkatesh,
Government Advocate.

O R D E R

Heard Mr. C.Bakthasiromoni, Learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent.

'

2.The petitioner has filed this writ petition challenging the goods detention notice issued by the respondent dated 21.02.2017. It is seen that subsequently the respondent has also issued a compounding notice dated 06.03.2017. The consignment has been detained by the respondent pointing out three defects, namely, the petitioner/consignor is not a registered dealer in the State of West Bengal; the import and

export mentioned in the road challan is bogus one and the dealers have not registered the godown i.e., Sre Ranga Logistics under Tamil Nadu Value Added Tax Act (TNVAT Act). The petitioner has been granted an opportunity to compound the offence by paying the tax. According to the petitioner, there is no right for the respondent to detain the goods which are covered by proper records. The petitioner has explained the case in detail and requested the respondent to release the goods. However, the respondent has not released the goods and issued the compounding notice. Further, it is stated that the goods can be transported from West Bengal to Chennai and kept in the godown to export the goods through Chennai Port and the goods which are consigned from West Bengal cannot be exported on the same day without following the procedure and documentation works for the export sales. Therefore, the petitioner has temporarily stored the goods in a private godown near Redhills as the goods have to be shipped to Malaysia by M/s.Sre Ranga Logistics. Only when the goods are stored for more than 30 days, then only proper permission and license has to be obtained from the sales tax authorities.

3.In my considered view, these are factual issues that the petitioner should establish before the appropriate authority and cannot gone into in this writ petition. Therefore if the petitioner seeks for release of the goods, he should pay one time tax as quantified in the compounding notice and thereafter, avail other remedies available under the Act.

4.In the light of the above, the writ petition is disposed of by directing the petitioner to remit one time tax of Rs.10,61,845/- and thereafter avail the other alternate remedy available under the provisions of the Act. On remittance of the one time tax, the respondent is directed to release the goods forthwith. No costs. Consequently connected miscellaneous petition is also closed

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Roving Squad - III,
Enforcement (Central),
Greams Road,
Chennai - 600 006.

+1cc to Mr.C.Bakthasiromoni, Advocate in sr.no.50884

W.P.No. 18530 of 2017
and
W.M.P.No.20093 of 2017.

SKS(CO)
NR 20/07/2017