IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.01.2017

CORAM

THE HONOURABLE Mr.JUSTICE RAJIV SHAKDHER

W.P.No.1979 of 2017
and W.M.P.No.1980 of 2017

M/s.Accutime Logistic Pvt. Ltd.,
Rep. by its authorised signatory
Door No.74, Thirukumaran Complex,
Marimalai Nagar, Main Road,
Kavangarai, Puzhal. ... Petitioner

Vs

1.The Commercial Tax Officer [Enforcement],
Roving Squad, Villupuram.

2.M/s.Reliance Industries Ltd.,
Village Mora Post,
Bhatha Taluk Choryasi,
Surat Hazuara Road,
Surat 394510. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in Goods Detention Notice No.1201 dated 19.01.2017 and consequent compounding notice in G.D.No.2101/2016-17 dated 19.01.2017 and quash the same and direct the 1st respondent to release the goods.

For Petitioner : Mr.Adithya Reddy

For 1st Respondent : Mr.Kanmani Annamalai, AGP

O R D E R

1. Issue notice. Mr.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondent No.1.

1.1. To be noted, the respondent No.2 is a private party and as per the averment made in the writ petition, is the owner of the detained goods.

2. The petitioner herein is the transporter, who was tasked with the duty, to move the goods from Surat in Gujarat to Puducherry. It appears that the petitioner had generated an E-Transit pass for this purpose on 13.01.2017. E-Transit pass required the petitioner to exit the State of Tamil Nadu on or before 17.01.2017 by 08.35 a.m. The petitioner concedes that he attempted to exit the State along with the detained goods on 19.01.2017 at 07.25a.m. It is for this reason, the respondent appears to have detained the subject goods and via the impugned order, demanded payment of tax and compounding fee.

3. To be noted, the impugned order mulcts the petitioner with tax, in the sum of Rs.1,08,827/- and, curiously, goes on to impose compounding fee at three times the amount of the tax imposed, whereas the maximum, that can be imposed under the Tamil Nadu Value Added Tax Act, 2006 is only, twice the amount.

4. Mr.Kanmani Annamalai, learned Additional Government Pleader, who appears for the respondent No.1 says that, if, one time tax is paid, the detained goods can be released to the petitioner.

5. Counsel for the petitioner says that the petitioner is willing to pay one time tax to expedite the release of the detained goods, albeit, without prejudice to its rights to assail the imposition of tax and compounding fee.

6. Having regard to the aforementioned facts, the Writ Petition is disposed of, with a direction to the respondent No.1, to release the detained goods to the petitioner, on payment of one time tax amounting to Rs.1,08,827/-. It is made clear, though the petitioner will be at liberty to challenge only not the imposition of tax, but also, the compounding fee levied via the impugned order. There shall, however, be no order as to costs. Resultantly, the pending Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer [Enforcement],
Roving Squad,
Villupuram.

+1cc to the Special Government Pleader Sr.5257
+1cc to Mr.Adithya Reddy, Advocate Sr.5198

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and
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srg 31/01/2017