IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.25434 of 2016
and W.M.P.Nos.21760 & 21761 of 2016

J.S.Manjrekar
Authorised Signatory of
M/s.Rochem Separation
Systems (India) Pvt. Ltd.,
A101, HDIL Towers, A.K. Road,
Bandra East, Mumbai - 400 051. ... Petitioner

Vs.

1.The Secretary to Government,
Commercial Taxes Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
Nungambakkam,
Chennai - 600 034.

3.Commercial Tax Officer,
Vellore Circle, Vellore.

4.Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi, Vellore District. ... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus calling for the records in respect of the impugned notices bearing (i)G.D.Nos.1506/2016-2017 dated 13.04.2016 and (ii)G.D.No.1507/2016-2017 dated 13.04.2016 issued by the 4th respondent, quash the same and direct the 4th respondent to release the vehicle along with the goods detained which is going for Defence Department, Port Blair.

For Petitioner : Mr.R.Padmanabhan
for Mr.P.Ponpandian
For Respondents: Mr.K.Venkatesh
Government Advocate

O R D E R

1. The record shows that on 21.07.2016, when the captioned matter came up before this Court, the following observations were made, after hearing the parties:

"…. Heard Mr.R.Padmanabhan, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader for the respondents.

2.The petitioner, in this writ petition, has challenged the notices issued by the fourth respondent dated 13.04.2016, which are goods detention notices, in and by which, the fourth respondent has detained the goods which were being detained in vehicle bearing Registration Nos.AP-02-TB-4693 and AP-22-TA-2721 on the ground that the goods have been moved by the State of Karnataka, from which, E-Sugam of Karnataka State Government was not generated and as per the invoice, the consignment should go through the Chennai Harbour, with the goods and therefore, the consignment was detained to verify the genuinity and to ensure that there was no loss of revenue to the Government. The fourth respondent was [sic : has] proceeded to issue the impugned notices and has demanded one time tax of Rs.4,73,485/- and Rs.6,18,309/-.

3.Learned counsel for the petitioner submitted that the goods are meant to be sold in Tamil Nadu and therefore, the compounding fee levied is illegal.

4.In the light of the above, without prejudice to the rights of the petitioner, the petitioner is directed to pay the one time tax of Rs.4,73,485/- and Rs.6,18,309/- and on such remittance, the goods shall be forthwith released. Consequently, the fourth respondent cannot demand the other amounts, which have been mentioned in the impugned notices, except the one time tax. This Court will consider the correctness of the impugned goods detention notices after the counter affidavit is filed by the fourth respondent. …."

2.Mr.Venkatesh, says that he has instructions to convey to this Court that the petitioner has not paid the One Time Tax, as indicated in the order dated 21.07.2016 and consequently, the goods could not be released to him.

3.At this stage, the learned counsel for the petitioner says that One Time Tax has been paid and hence, the goods should have been released as directed by this Court vide order dated 21.07.2016.

3.1. Furthermore, the learned counsel appearing for the petitioner was asked as to whether he would like to challenge the impugned order dated 13.04.2016 by taking recourse to the alternate remedy under the Tamil Nadu Value Added Tax, 2006, in view of the direction, that has already been issued for release of the detained goods, vide order dated 21.07.2016.

3.2. The learned counsel appearing for the petitioner says that the petitioner would take a recourse to the remedy provided under the Tamil Nadu Value Added Tax, 2006.

4.Accordingly, the Writ Petition is disposed of giving liberty to the petitioner to assail the impugned order, albeit, in accordance with law, by taking recourse to an appropriate remedy available under the Tamil Nadu Value Added Tax, 2006. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To
1.The Secretary to Government,
Commercial Taxes Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
Nungambakkam,
Chennai - 600 034.

3.The Commercial Tax Officer,
Vellore Circle, Vellore.

4.The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi, Vellore District.

+1cc to Special Government Pleader, Advocate, S.R.No.3866
+1cc to Mr.P. Ponpandian, Advocate, S.R.No.3888

SS(CO)
EU 20.2.17

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