IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P. No. 44380 of 2016
and
WMP No.38248 of 2016

M/s. Chartered Logistics Limited
Represented by its Manager,
Mr. Manoj Singh,
Regd Office : C-1, Jay Tower,
4th Floor, Ankur Commercial Centre,
Ankur Road,
Naranpura, Ahmedabad-13. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Pattanur Checkpost,
Villupuram District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari Mandamus to call for the impugned proceedings of the respondent in G.D.No.2862/2016-2017 dated 11.12.2016 and quash the same and further direct the respondent to release the detained consignment of Polyester Chips (Plastic Granules) without insisting on one time tax and two times tax as compounding fees.

For Petitioner :Mr.P.Rajkumar
For Respondent :Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard the learned counsel appearing for the petitioner and learned Additional Government Pleader appearing for the respondent

2.This writ petition is filed challenging the notice dated 11.12.2016, wherein and whereby, the petitioner was called upon to pay tax at rate of 5% amounting to Rs.75,142/- and the compounding fee of Rs.1,50,284/-.

3. The respondent passed the impugned proceedings on the reason that the petitioner had failed to comply with the provisions of the Tamil Nadu VAT Act, 2006, for the transport of the 6^{th} schedule goods and that he did not appear before the respondent and produce evidence for the subject matter transaction.

4.The learned counsel appearing for the petitioner contended that when the petitioner is having all the materials in support of their contention, the respondent has passed the impugned order without giving proper opportunity to the petitioner to put forth their case.

5.Learned Additional Government Pleader appearing for the respondent submitted that when a notice was sought to be served on the driver of the vehicle, he refused to receive the same and hence such notice was affixed on the lorry. Therefore, he contended that the petitioner is not entitled to any indulgence from this court.

6. Upon hearing the learned counsel appearing on either side and considering the facts and circumstances of the case and also considering the fact that the goods have already been released by way of interim order passed by this court, as the petitioner has paid one time tax, it is for the respondent to give one more opportunity to the petitioner to put forth their case so as to arrive at a conclusion as to whether the Tax and Compounding fee already imposed have to be sustained or not. Accordingly, without expressing any view on the claims made by the petitioner on the merits of the matter, I only direct the respondent to give one more opportunity to the petitioner to put forth their case by way of objection/explanation. For such purpose, the matter is remitted back to the respondent without setting aside the impugned notice, in order to hear the petitioner and pass a fresh order, if the respondent has satisfied with the explanation/objection given by the petitioner. Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Pattanur Checkpost,
Villupuram District.

+1cc to Mr.P.Rajkumar, Advocate Sr.17441
+1ccc to the Special Government Pleader Sr.17746

W.P. No. 44380 of 2016

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srg 03/04/2017