IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.1.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.1292 OF 2018 & WMP.NO.1623 OF 2018

M/s.S.S.Industries, rep.by
its Managing Partner ...Petitioner

Vs

1.The Commercial Tax Officer (Enf.),
Roving Squad II, Salem.

2.The Commercial Tax Officer,
Tindivanam. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent in proceedings dated 10.4.2017 in G.D.No.1001/2017-18 and quash the same.

For Petitioner : Mr.P.Adithya Reddy

For Respondent : Ms.G.Dhana Madhri, GA

ORDER

Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging a notice issued by the first respondent calling upon the petitioner to pay the compounding fee as demanded pursuant to the release order dated 10.4.2017, by which, the goods, which were detained, were released in pursuance of the order passed in W.P.No.8386 of 2017 dated 07.4.2017.

3. The petitioner, on receipt of the notice dated 10.4.2017, sent a reply dated 12.5.2017 stating that the first respondent, as a check post officer, has no jurisdiction to demand compounding fee and that it cannot be compelled to be paid by the petitioner. By way of response to the said reply, a notice dated 28.12.2017 was issued by the first respondent stating that the petitioner did not comply with the directions issued by this Court in W.P.No. 8386 of 2017 dated 07.4.2017 by filing a revision petition against the order dated 10.4.2017 and that therefore, he is entitled to demand the amount.

4. It is seen that the said writ petition filed challenging the goods detention notice dated 04.4.2017 was disposed of on 07.4.2017 by imposing a condition for release of the goods and that the petitioner was granted liberty to challenge the final order passed by the first respondent, before the Revisional Authority. Since no time limit was fixed, the petitioner appears to have not taken steps to pursue the statutory remedy. Owing to this, the petitioner has been pushed to the present circumstances wherein the first respondent is insisting upon payment of the entire amount as computed.

5. Considering the fact that this Court, in the earlier writ petition, granted liberty to the petitioner to challenge the final order without stipulating time, this Court is inclined to grant a short indulgence to the petitioner to go before the Revisional Authority and if they fail do so, then the second respondent can take appropriate action to recover the entire tax and penalty.

6. For the above reasons, while disposing of the writ petition, this Court directs the impugned notice to be kept in abeyance and the petitioner is directed to file a revision petition before the Joint Commissioner concerned along with a copy of this order within 10 days from the date of receipt of a copy of this order. If the petitioner fails to file a revision, then the protection given in this order will not enure in favour of the petitioner and the respondents will be entitled to proceed further. No costs. Consequently, the connected WMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

RS

To

1.The Commercial Tax Officer (Enf.),
Roving Squad II, Salem.

2.The Commercial Tax Officer,
Tindivanam.

+1 CC to Mr.P.Adithya Reddy, Advocate Sr.No.4714

+1 CC to Government Pleader, High Court, Chennai Sr.No.5233

WP.No.1292 of 2018&
WMP.No.1623 of 2018

PVS(CO)
KP(08/02/2018)