IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.9590 of 2016
and W.M.P.No.8625 of 2016

M/s.J.K.R.Solution,
represented by tis Partner
Mr.M.Jagat Ballav Das.
N.6, 1st Floor, ganga Nagar,Jafferkhanpet
Chennai - 600 083. ... Petitioner

vs.

1. The Commercial Tax Officer
(Roving Squad)
Enforcement,
Villupuram.

2. The Assistant Commissioner (CT),
Ekkaduthangal Assessment Circle,
Chennai. ..Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in G.D.No.116/2015-16 dated 9.3.2016 and quash the same as contrary to the provisions of the TNVAT act and CST Act and so without authority of law and further direct the first respondent to release the detained consignment of Electrical Goods without insisting on the payment of one time tax and two times tax as compounding fee.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mr.M.Hariharan
Additional Government Pleader (Tax)



O R D E R

This writ petition is filed challenging the goods detention proceedings dated 09.03.2016.

2. Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader (Tax) appearing for the respondents.

3. The petitioner is a dealer and the goods transported by them were detained by passing the detention order dated 09.03.2016 based on the reasons and circumstances stated therein. It is not required to go into such reasons and circumstances now, in view of the subsequent development taken place, after filing the writ petition, as follows:

At the time of entertaining the writ petition and granting an interim order for the release of the goods, this Court, by an interim order dated 15.03.2016, directed the petitioner to pay 2% of the tax amount of Rs.1,65,344/- before the 2nd respondent and also to give bank guarantee for a sum of Rs.700,000/-. It is not in dispute that the petitioner has complied with the said condition and consequently, the detained goods were released. It is now stated before this Court that pursuant to the reply filed by the petitioner before the 2nd respondent/ assessing officer, an order of assessment dated 15.06.2017 was also passed for the assessment year CST 2015-16 wherein exemption was granted on the transit sales turnover of Rs.1,19,13,090/- on the strength of 'C' Forms and E1 Forms filed by the petitioner. Therefore, it is contended before this Court that though the goods were released on complying with the condition imposed by this Court, the petitioner is entitled to get the benefit of refund of amount already paid by him while complying with the conditional order passed by this Court and also for release of the bank guarantee furnished by them. Needless to say that if the petitioner is benefited by the order of assessment passed by the 2nd respondent and consequently, if the petitioner is entitled to get the refund of the tax paid by them, it is for them to make appropriate application before the concerned authority for refund of the tax amount also for the release of bank guarantee. If any such application is filed, the same shall be considered on its own merits and in accordance with law as the condition imposed by this Court is only for release of the goods and thus, the concerned authority shall consider the claim of the petitioner for refund of tax and release of bank guarantee without reference to the order already passed by this Court on 15.03.2016.

5. With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS )

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Commercial Tax Officer
   (Roving Squad)
   Enforcement,
   Villupuram.

2. The Assistant Commissioner (CT),
   Ekkaduthangal Assessment Circle,
   Chennai.

+1cc to Mr.P.RAJ KUMAR , Advocate SR.No. 59984
+1 CC TO SPECIAL GOVERNMENT PLEADER SR.NO. 60282

W.P.No.9590 of 2016

ASK(10/09/2018)