BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2018
CORAM:
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.21113 of 2016
and
W.M.P.(MD).Nos.15094 and 15095 of 2016

Tvl.Regent Creation Pvt. Limited,
rep. by its Managing Director
Mr.S.Haribalagan,
SIDCO, Industrial Estate,
Kovilpatty,
Tuticorin District - 628 501. .. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Commercial Taxes and
Registration, Fort St. George,
Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam,
Chepauk,
Chennai - 600 005.

3.The Joint Commissioner (C.T.),
Enforcement Wing,
Trichy.

4.The Deputy Commercial Tax Officer - II,
Roving Squad, (Enforcement Wing),
Trichy. .. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the notice issued by the 4th respondent in GDN No.041, Goods Detention Notice No.50/2016-17, dated 07.10.2016 received by the petitioner on 07.10.2016 and quash the same and direct the 4th respondent to pass refund order refunding Rs.83,250.00 to the petitioner and permitting the petitioner to adjust Rs.83,250.00 towards the future demands to be paid to the Assessing Officer.

For Petitioner : Mr.M.MD.Ibrahim Ali

For respondents : Mr.R.Murugan,
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the goods detention notice issued by the 4th respondent dated 07.10.2016 and for a consequential direction to the 4th respondent to pass refund order refunding Rs.83,250.00 to the petitioner and permitting the petitioner to adjust Rs.83,250.00 towards the future demands to be paid to the Assessing Officer.

2. The petitioner is a manufacturer of ready made garments and registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006. According to the petitioner, he used to sent the fabric and all the connected materials for manufacturing of garments, to Tvl.Kavitha Garments, Chennai and get the finished goods. On 07.10.2016 M/s.Kavitha Garments, Chennai sent the finished goods to the petitioner through a lorry bearing registration No.TN-68-AU-9495 with a valid form JJ. But, the 4th respondent detained the said vehicle and issued the impugned notice for the following reasons:

a.Transported goods, ready made shirts, 7400 pieces from Chennai to Kovilpatty.

b.That the works contract (Labour Work) supporting documents not produced.

According to the petitioner, as per G.O.Ms.No.18, dated 29.01.2016, the goods could be transported either with a bill of sale or a delivery note in Form JJ downloaded from the department website. The 4th respondent, without following the said Government Order, has detained the vehicle and collected Tax of Rs.83,250/-. After paying the said amount, the petitioner has come up with this writ petition for the aforesaid prayer.

3. Heard the learned counsel appearing for both sides and perused the records carefully.

4. It is seen from the record that while conducting inspection, the 4th respondent found the goods of the petitioner were transported without any proper documents and therefore, the 4th respondent detained the same and issued a detention notice dated 07.10.2016 and thereafter, issued a notice dated 08.10.2016 to the petitioner granting 10 days time to submit his reply. But, the petitioner, without submitting his any objections, has accepted the defects pointed out by the 4th respondent and expressed his willingness to pay the compounding fee and accordingly, paid the fee and tax. Having accepted the defects and paid compounding fee, it is not proper on the part of the petitioner to approach this Court challenging the said notice. There is no violation of principles of natural justice. Therefore, this Court is inclined to dismiss this writ petition.

5. In view of the above, this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar(CS-I)

To

1.The Secretary to Government,
Department of Commercial Taxes and
Registration, Fort St. George,
Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam,
Chepauk,
Chennai - 600 005.

3.The Joint Commissioner (C.T.),
Enforcement Wing,
Trichy.

4.The Deputy Commercial Tax Officer - II,
Roving Squad, (Enforcement Wing),
Trichy.

+1cc to Mr.MOHAMED IBRAHIM ALI, Advocate, SR.No. 90013
+1cc to M/s.Special Government Pleader,SR.No.90436

W.P(MD)No.21113 of 2016

GCG
KK/RP/SAR-1/03.12.2018/3P-7C