IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 29.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.12421 of 2011

Tvl.Sha Fusaji Megraj & Co.,
Rep. by it Proprietrix,
Ms.Bhawari Bai ...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary,
Commercial Taxes Department
Fort St.George,
Chennai 600 009.

2.The Commissioner of Commercial Taxes
2nd Floor, Ezhilagam
Chennai-600006

3.The Joint Commissioner (Enforcement Wing),
(East), Greams Road
Chennai-600006

4.The Commercial Tax Officer,
Roving Squad-II
Enforcement (East),
Chennai-600006

5.The Commercial Tax Officer,
Peddunaickenpet (South) Assmt. Circle,
191, N.S.C.Bose Road,
Chennai-600001 ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records on the file of the 4th respondent in G.D.No.101/2011-12 dated 30.04.2011 and quash the same as being contrary to the notification issued by the Government of Tamil Nadu in G.O.Ms.No.149 dated 12.10.2009 and contrary to the order passed by the Revisional Authority in R.P.NO.11/2010 dated 05.06.2010.

For Petitioner : Mr.R.Senniappan

For Respondents: Ms.Dhana Madhri
Government Advocate

O R D E R

The order of detention passed under Section 67 of the Tamil Nadu Value Added Tax Act, 2006, detaining goods, is under challenge in the present writ petition.

2. When the writ petition came up for for admission, this Court, by order dated 18.05.2011, had passed interim order, directing 4th respondent to release the consignment detained on 30.04.2011, under the impugned detention notice dated 30.04.2011, on condition that the petitioner pays 50% of the tax amount alone.

3. Pursuant to the interim order, it is claimed by the petitioner that he has paid 50% of the tax amount and had also obtained custody of the detained consignment. The learned counsel for the petitioner raised several grounds, challenging the order of detention itself and thereby would contend that he is not liable to pay the tax amount and therefore, the amount of 50%, deposited, should be released in his favour.

4. In my view, these are grounds, which require to be considered by the Revisional Authority, since the Act provides for a revision under Section 54 of the TNVAT Act and it cannot be justifiable for this Court to step into the shoes of the Revisional Authority and determine the petitioners' liability to pay tax.

5. In the light of the above observations, the petitioner is granted liberty to approach the concerned Revisional Jurisdictional Authority by ventilating his grievances, within a period of thirty (30) days, from the date of receipt of a copy of this order and on receipt of such revision application, the concerned Revisional Authority shall dispose of the same within a period of three (3) months from the date of receipt of the revision application, to be filed by the petitioner.

6. With the above directions, this Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary, State of Tamil Nadu,
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Chennai 600 009.

2.The Commissioner of Commercial Taxes
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3.The Joint Commissioner (Enforcement Wing),
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Chennai-600001

+1 cc to Spl Government Pleader Sr.No. 75802
+1cc to Mr.R.Senniappan , Advocate SR.No. 75084

W.P.No.12421 of 2011

A.SK(14/10/2019)