IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.30665 of 2018
and
W.M.P.No.35770 of 2018

M/s.Bhuwalka Pipes (P) Limited
Represented by its Authorized Signator
Mr.Parmatma Prasad
Near Sulthanpur Village,
Sandur Taluk, Bellary District
Karnataka State - 583 115. ...Petitioner

vs.

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

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

3. The Deputy Commercial Tax Officer
Kandamangalam Check Post
Linga Reddy Palayam
Villupuram District.

4. The Assistant Commissioner (ST) (FAC)
Office of the Assistant Commissioner
Villupuram-II, Villupurpam.

5. M/s.Larsen and Toubro Ltd.,
Construction, Dhanvanthri Nagar
Pondicherry. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the issue of the notice by the 4th respondent in his Notice RC.No.A3/1313/2017 dated 31.08.2018 and quash the same and to direct 4th respondent to pass assessment order by following the procedure contemplated under the Act.

For Petitioner : Mr.K.Sivakumar
For Respondents : Mr.M.Hariharan
Additional Government Pleader

O R D E R

The petitioner is aggrieved against the notice issued by the 4th respondent dated 31.08.2018, wherein and whereby, the petitioner was called upon to pay the arrears of Rs.1,18,170/-, being the compounding fee determined by the authority concerned.

2. Heard both sides.

3. It is seen that the goods transported by the petitioner was detained and however, in pursuant to the order passed by this Court, it was released on payment of tax of Rs.59,085/-. Consequently, the Deputy Commercial Tax Officer, passed an order levying compounding fee of Rs.1,18,170/-. The said compounding fee is sought to be collected through the impugned notice. Needless to say that it is for the petitioner to work out their remedy against the order levying such compounding fee by filing revision before appropriate authority. Without doing so, challenging the consequential notice impugned in this writ petition is not a proper course of action.

4. It is stated that the order imposing compounding fee was not served on the petitioner. If that be the case, the concerned authority shall serve the said order to the petitioner within a period of two weeks from the date of receipt of a copy of this order. On receipt of such order, the petitioner is at liberty to challenge the said order before the concerned revisional authority within a period of two weeks thereafter. If any such revision is filed, the same shall be considered and appropriate order shall be passed on merits and in accordance with law without reference to the period of limitation.

5. With the above observations, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu
   Represented by its Secretary to Government
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   Chennai-600 009.

2. The Commissioner of Commercial Taxes
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4. The Assistant Commissioner (ST) (FAC)
   Office of the Assistant Commissioner
   Villupuram-II, Villupurpam.

+1 cc to spl Government Pleader Sr.No. 88558
+1cc to Mr.M.MD.Ibrahim Ali , Advocate SR.No. 88077

W.P.No.30665 of 2018

A.SK(15/11/2019)