IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.20461 of 2014

M/s. Priya Construction,
Represented by its Managing Partner,
P.Sivakumar, No.1/8, Senthil Agam,
Iyenthupanai, Kadachanallur Post,
Tiruchengode Taluk,
Namakkal - 638 008. ... Petitioner

Vs.

1. The Checkpost Officer,
Tiruttani Checkpost,
Tiruttani, Thiruvellore District.

2. The Assistant Commissioner (CT),
Tiruchengode (Rural) Assessment Circle,
Tiruchengode. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to arrange to refund back the excess amount of Rs.88,200/- which is not in accordance with the compounding order passed in O.R.No.78/2014-15 and G.D.No.44/2014-15 dated 25.7.2014 under Section 72(1)(b) of the TNVAT Act 2006.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.A.N.R.Prathap,
Government Advocate (T)

ORDER

According to the petitioner, they are the civil works and labour contractor and registered dealer under the TNVAT Act 2006 as well as the CST Act, 1956 and assessee on the file of the second respondent. During the course of such business, on 18.04.2013, they entered into an agreement with M/s.National Institute of Ocean Technology, for carrying out certain works.

Accordingly, they purchased aluminium coated sheets from Andhra Pradesh and the goods were moved from Andhra Pradesh to Chennai along with valid documents. However, the first respondent had detained the same on 25.07.2014 without any show cause notice calling upon the petitioner to file their objections, except issuance of compounding notice, in which, the first respondent proposed to levy compounding fee of Rs.90,200/-. Considering the fact that there may be a chance of damaging the goods due to weather condition, the petitioner had compounded the offence and paid the amount as demanded by the first respondent and got the goods released. It is the grievance of the petitioner that as per Section 72(1)(b) of TNVAT Act, the first respondent ought to have collected only a sum of Rs.2,000/- towards compounding fee, whereas they have collected Rs.90,200/- from the petitioner for the release of the detained goods, without any basis. Hence, the petitioner has preferred this Writ Petition for a mandamus, directing the first respondent to refund the excess amount of Rs.88,200/- to them.

2.However, today when the matter was taken up for consideration, the learned counsel for the petitioner, on instructions, submitted that it would suffice, if the petitioner is granted liberty to approach the second respondent / Assessing Authority to challenge the proceedings with regard to compounding the offence, for which, the learned Additional Government Pleader (T) appearing for the respondents has no serious objection.

3.Considering the limited nature of the relief now sought by the learned counsel for the petitioner and the same has not been seriously opposed on the side of the respondents, this Court disposes of this writ petition, granting liberty to the petitioner to approach the second respondent / Assessing Authority for challenging the proceedings with respect to compounding the offence, within a period of three weeks from the date of receipt of a copy of this order. On such approach, the second respondent / Assessing Authority shall entertain the same, without raising any issue with regard to limitation and consider the same and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of six weeks thereafter. No costs.

Sd/-
Assistant Registrar(AD I)

//True Copy//

Sub Assistant Registrar

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To

1. The Checkpost Officer,
   Tiruttani Checkpost,
   Tiruttani, Thiruvellore District.

2. The Assistant Commissioner (CT),
   Tiruchengode (Rural) Assessment Circle,
   Tiruchengode.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.22213
+1cc to the Government Pleader, S.R.No.22821

W.P.No.20461 of 2014

KS(CO)
KKV/14/07/2020