IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.9741 of 2017
and
W.M.P.No.10716 of 2017

(Through Video Conferencing)

M/s. Voltech Manufacturing Co. Limited,
Rep. by its Managing Director - M.Umapathi,
No.2/431-B, Sree Kumaran Nagar,
Kundrathur Main Road, Kovur,
Chennai - 600 122. ... Petitioner

Vs.

1.The Assistant Commissioner [CT],
Sriperumbudur Assessment Circle,
Sriperumbudur.

2.The Deputy Commercial Tax Officer,
Ranipet (In) Check-post,
Serkadu, Vellore District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent in its impugned Notice issued in GD No.2309/2016-17 dated 03.03.2017 quash the same as illegal and against the provisions of the Act in so far as the petitioner is concerned.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.R.Swarnavel, G.A.

O R D E R

In this Writ Petition, the petitioner has challenged the impugned Notice dated 03.03.2017 issued by the second respondent levying tax of Rs.1,07,551/- and a compounding fee of Rs.2,15,102/- under Section 72(1)(a) of the Tamil Nadu Value Added Tax Act, 2006.

2. The aforesaid notice was issued in the background of purchase of goods from a dealer in Maharashtra. While the goods were being transported from Maharashtra to Chennai, the consignment was detained at the Check Post in Vellore as the document did not accompany Advance Inward Way Bill in appropriate form as per Section 67-A of the Tamil Nadu Value

Added Tax Act, 2006. The impugned notice invokes the Rule 15 (18)(a)(v) of the Tamil Nadu Value Added Tax Rules, 2007. In the impugned notice, it has been stated as follows:-

> According to Section 67-A of the TNVAT Act, 2006 "The driver or any other person in charge of the goods vehicle entering into the State from a place outside the State to a destination within the State, carrying any of the goods as may be notified by the Government from time to time, shall on demand, produce at the checkpost on its route or before such authority as may be prescribed in this regard , advance inward way bill in such form and in such manner as may be prescribed" read with Notification III in G.O.15 dated 29.01.2016.
>
> According to the TNVAT Rules 2007, Rule 15 sub rule 18(a)(v) "The movement of such goods, as may be notified by the Government from time to time as evasion prone, into the State, shall be accompanied, along with the sale bill, by an advance inward delivery note in Form JJ, electronically generated by the buyer or receiver of such goods and sent to the transporter or person in charge of the vehicle carrying such goods. A copy of such electronically generated delivery note in Form JJ shall be furnished at the entry check post or barrier or to the officer on inspection".
>
> But the consignee Tvl. Voltech Manufacturing Co. Ltd. failed to submit the prescribed form JJ (Advance inward way bill) as mandated in section 67A of the TNVAT Act 2006, read with rule 15(18)(a)(v) and notification III in GO(ms) No.15/29.01.16.

3. Since the goods of the petitioner were detained, the petitioner has paid the amount of tax and the compounding fees under Section 72(1)(a) of the Tamil Nadu Value Added Tax Act, 206 and got the release order dated 03.03.2017 on the same date from the second respondent. The order of the second respondent releasing the goods is re-produced below:-

> The goods covered by As per Invoice No.1442/16-17 dated 24.02.2017 is hereby ordered to be released for delivery to the consignee since.
>
> a) The dealer has paid Rs.107551/- (One Lakh seven thousand five hundred and fifty one only) as tax by Online dated 03.03.2017 of SBI

b) The dealer has paid Rs.215102/- (Rupees Two lakh fifteen thousand one hundred and two only) as compounding fee by DD No.088016/03.03.2017 of Bank of Baroda.
c) Genuineness of the transaction is proved.

4. The learned counsel for the petitioner further submits that the issue is now squarely covered by the plethora decisions of this Court including the one rendered in Tvl. Jindal Pipes Limited Vs. The State of Tamil Nadu and Others vide order dated 27.09.2016 in W.P.No.33761 of 2016.

5. That apart, this Court by an order dated 12.02.2021 has allowed a writ petition in W.P.No.28061 of 2016 under the similar circumstances reducing the compounding fee for a sum of Rs.2,000/- under Section 72(1)(b) of the Tamil Nadu Value Added Tax Act, 2006.

6. Since under similar circumstances relief has been granted, this Writ Petition is allowed by quashing the impugned order insofar as the compounding fee of Rs.2,15,102/-. The petitioner is however liable to pay a sum of Rs.2,000/- as a compounding fee under Section 72(1)(b) of the Tamil Nadu Value Added Tax Act, 2006. After appropriation of Rs.2,000/-, the balance amount is directed to be refunded back to the petitioner or allowed to be adjusted against future tax liability of the petitioner. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner [CT],
Sriperumbudur Assessment Circle,
Sriperumbudur.

2.The Deputy Commercial Tax Officer,
Ranipet (In) Check-post,
Serkadu, Vellore District.

+1cc to M/s.R.Hemalatha, Advocate SR.No. 10026
+1 cc to Spl Government Pleader taxes Sr.No. 10052

W.P.No.9741 of 2017 and
W.M.P.No.10716 of 2017

A.SK(23.03.2021)