

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.05.2015

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THE HONOURABLE MR .JUSTICE **R.SUBBIAH**

W.P.No.14696 of 2015

Sri Ambal Blue Metals (India)
Private Limited,
rep.by its Manager,
Mr.A.Sekhar Reddy

.. Petitioner

Vs.

1.The Commercial Tax Officer,
Vellore & District

2.The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi, Vellore District

... Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to release the vehicle bearing Registration No.AP 28 Y 5372 with the Hydraulic Excavator Tata Hittachi Ex 200 model.

For Petitioner : Mr.R.Chandrasekaran

For Respondents : Mr.Kanmani Annamalai,A.G.P.

ORDER

Heard Mr.R.Chandrasekaran, learned counsel appearing for the petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader, who takes notice on behalf of the respondents. By consent, the writ petition itself is taken up for final disposal.

2. This writ petition has been filed seeking for a mandamus directing the respondents to release the vehicle bearing Registration No.AP 28 Y 5372 with the Hydraulic Excavator Tata Hittachi Ex 200 model.

3. The petitioner company has purchased a Hydraulic Excavator of Tata Hitachi make of Model Ex.200 LC with 5.68 MHD Boom, 2.22 M ARM, 0.8 CUM HD Bucket, fitted with 6 BT Tata Cummins engine. The machine is being used for the purpose of the petitioner's Metal Company and it was operated by the trained operators. Since the said machine is put into use for about five years, its condition has been deteriorated and hence it requires repair. Therefore, the machine was sent for repair and full service to the workshop situated at Nellore, through a lorry bearing Regn.No.AP 28 Y 5372 from Palladam to Nellore. When the said lorry was proceeding to

Nellore, it was intercepted and detained by the second respondent on 2.5.2015 at Katpadi Check Post, Vellore. At that time, the lorry driver produced all the relevant records, including his driving license. However, the second respondent, not satisfied with the records shown by the driver, issued Goods Detention Notice dated 2.5.2015 on the ground that the goods are transported from Tamil Nadu to Andhra Pradesh without valid records i.e. original invoice copy of the machine. In fact, the original invoice of the machine is with the Indian Overseas Bank, Palladam Branch, Tiruppur District, as loan was granted by the bank. The machine was sent for repair to Nellore and not for any other commercial purpose. Hence, the petitioner is before this Court with the above prayer.

4. The learned counsel for the petitioner submitted that since the Hydraulic Excavator machine was purchased by availing loan from the bank, the original receipt is kept by the bankers and therefore, the lorry driver has produced a duplicate of the said invoice and all other relevant documents, but the same has not been accepted by the second respondent. Since the machine is to be repaired very urgently for its effective operation, the same was taken to Nellore. The learned counsel has also produced a copy of the certificate issued

by the banker, dated 6.5.2015, proving the possession of the original invoice with the bank.

5. On a perusal of the records, I find that the original invoice was kept by the Indian Overseas Bank, Palladam Branch, Tiruppur District, which is evident from the certificate, dated 6.5.2015, issued by the banker, which reads as follows:

"TO WHOMSOEVER IT MAY CONCERN

*This is to certify that we have granted loan against
TATA Hitachi Excavator Model Ex200 LC Hydraulic
Excavator Invoice No.12517173 dated 07.11.2008
chassis No.20019973 Engine No.62705166. We are
holding the original Invoice mentioned above."*

Since the original invoice has been held by the bank, the petitioner was not in a position to produce the original invoice. However, the petitioner has produced a copy of the invoice and all other relevant documents to the second respondent. Therefore, I do not find any justification in the Detention Notice issued by the second respondent and the same is liable to be quashed. Accordingly, the detention

notice, dated 2.5.2015, issued by the second respondent is quashed. The respondents are directed to release the vehicle bearing Registration No.AP Y 5372 with Hydraulic Excavator within a period of one week from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs.

14.05.2015

msk
To

- 1.The Commercial Tax Officer,
Vellore & District
- 2.The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi, Vellore District

R.SUBBIAH, J.

msk

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