

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.5.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.15155 of 2015

and

MP.No.1 of 2015

M/s. Anwar Oil Mill
Rep.by its Manager,
Authorised Signatory,
A.Anwar Abdul Gaffer Akbani
Plot No.D-28, M.I.D.C.Gokul Shirgoan
Kolhapur District, Maharashtra

...Petitioner

v.

1. The Deputy Commercial Tax Officer
Ranipet Outward Checkpost at Serkadu
Katpadi Taluk, Vellore District
2. Sales Tax Officer (Registration Br.,)
Kol-VAT-C-002, Kolhapur

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus, calling for the records on the file of the first respondent order in G.D.No.2517/15-16 dated 08.5.2015 and the consequential proceedings of the first respondent dated 15.5.2015 quash the same and direct the first respondent to release the goods detained order in G.D.No.2517/15-16 dated 08.5.2015 along with vehicle No. TN.02 AR 7079.

For Petitioner : Mr.S.N.Kirubanandam

For Respondents : Mr.S.Kanmani Annamalai
Addl. Government Pleader (Tax)

O R D E R

The petitioner company has filed the above writ petition to issue a Writ of Certiorarified mandamus, calling for the records on the file of the first respondent dated 08.5.2015 and the

consequential proceedings of the first respondent dated 15.5.2015, to quash the same and to direct the first respondent to release the goods detained under Order dated 08.5.2015 along with vehicle bearing Registration No. TN 02 AR 7079.

2. According to the petitioner, the respondent passed the impugned order based on presumption and without giving any reasons. Hence, the impugned order is liable to be set aside. Further, according to the petitioner, the goods were sold on high seas before the same crossed the customs frontiers of India and therefore, the purchase and the movement of goods by the petitioner is in accordance with Section 5(2) of the CST Act. Therefore, according to the petitioner, the first respondent has no jurisdiction to pass the impugned order. The petitioner, during the course of his business activities, purchased RBD Palmolein Oil from M/s. Gemini Edibles & Fats India Pvt.Ltd., Chennai, on bond transfer and cleared the goods by filing the bill of entry for Ex-bond warehouse and by paying the necessary customs duty. In these circumstances, the petitioner filed the above writ petition to release the goods detained under Order dated 08.5.2015 along with vehicle.

3. Mr. Kanmani Annamalai, learned Additional Government Pleader (Tax), who took notice for the respondents, submitted that the respondents may be directed to pay the respective tax amount by way of bank guarantee to the satisfaction of the respondents.

4. Having regard to the submissions made by the learned counsel appearing on either side, I direct the petitioner to pay the total sum of Rs.1,52,440/- towards the three impugned detention orders, viz., 2517/15-16, 2518/15-16 and 2519/15-16 respectively dated 08.5.2015, by way of bank guarantee and on furnishing the same, the respondents are directed to release the goods detained under Order dated 08.5.2015 along with vehicle immediately.

With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commercial Tax Officer
Ranipet Outward Checkpost at Serkadu
Katpadi Taluk, Vellore District
2. Sales Tax Officer (Registration Br.,)
Kol-VAT-C-002, Kolhapur.

1 CC to Mr.S.N.Kirubanandam, Advocate SR.No. 25449

1 CC to the Government Pleader (T), SR.No. 25475

W.P.No.15155 of 2015

TEJ (CO)
PSI (22.05.2015)



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