IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition Nos.18090 & 18091 of 2015 and
M.P.Nos.1 of 2015

Madhu Traders
Rep. By its Proprietor,
No.69, Ottampalayam Main Road,
Othiampet Post,
Puducherry. .. Petitioner in both W.Ps

Vs

The Commercial Tax Officer,
Roving Squad - II,
Enforcement (North)
Greams Road,
Chennai - 600 006. .. Respondent in both W.Ps

Prayer in W.P.No.18090 of 2015:- This Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorarified Mandamus, to call for the entire records of the respondent in Good Detention Notice No.7063/2015-16 dated 17.06.2015 and quash the order passed therein and direct the respondent to release the detained goods along with the vehicle bearing Registration No.TN 20 BV 3609.

Prayer in W.P.No.18091 of 2015:- This Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorarified Mandamus, to call for the entire records of the respondent in Good Detention Notice No.7064/2014-15 dated 17.06.2015 and quash the order passed therein and direct the respondent to release detained goods along with the vehicle bearing Registration No.TN 30 AS 5799.

For Petitioner in both W.Ps	: Mr.A.P.Srinivas
For Respondent in both W.Ps	: Mr.V.Haribabu Additional Government Pleader (T)

WEB COPY

COMMON ORDER

Heard Mr.A.P.Srinivas, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (T), for the respondent and with their consent, the writ petitions are taken up for disposal.

2.Learned Counsel for the petitioner would submit that the petitioner is a dealer in edible oil and also a registered dealer under the Puducherry Value Added Tax Act and his Registration Number is 34940015466. After purchasing the imported RBD-Palmolein Edible Grade in Bulk, the petitioner has filed bill of entry for clearing the goods on payment of customs dues. Accepting the documents, the goods were cleared by Clearing and Forwarding Agent, namely, Saabari Logistics Private Limited on behalf of the petitioner and as the goods being the imported goods, the C&F agent has given the Form KK dated 16.06.2015 as prescribed under Rule 15(14) of the TNVAT Rules, 2007. Further, as per Section 70 of TNVAT Act, the transit pass has to be obtained from the Commercial Tax Department for transporting the goods to outside the State and as per the requirement of said section, a Transit Pass dated 16.06.2015 was generated in the on line (Electronic Form) by the petitioner intimating that the goods will pass through the Kandamangalam Checkpost. The name of the commodity, quantity, value and the vehicle number were stated in the transit pass. Subsequently, the gate pass was also issued by the custodian of the goods at Chennai Customs on 16.06.2015 stating that the vehicle has to exit via Harbour/Port Trust Gate No.10.

3.The learned Counsel for the petitioner would further submit that the petitioner's vehicle has fulfilled all the requirements under TNVAT Act for the transportation of the goods from Chennai Port to Puducherry. But for no reason, the respondent has detained the goods despite the fact that the transit pass was issued by the custodian of the goods at Chennai Customs stating that the vehicle has to exit via Harbour/Port Trust Gate No.10 thereby clearly mentioning the name of the ship, name of the consignee, Vehicle Registration Number,

WEB COPY

Description, Quantity and weight of the goods and the place of landing etc. Therefore, it is not known on what basis, the impugned goods detention notice in Form No.41 came to be issued by detaining the goods. Hence, the learned Counsel for the petitioner would pray to set aside the impugned notice and to release the goods.

4.On 24.06.2015 when the matter was called, Mr.V.Haribabu, learned Additional Government Pleader (T) who took notice for the respondent submitted that he is not able to give any explanation for the impugned notice issued by the respondent. Hence, this Court has passed the following order:-

"5.Under such circumstances, the respondent, namely, the Commercial Tax Officer, Roving Squad-II, Enforcement (North), Greams Road, Chennai-6, is directed to be present before this Court on 29.06.2015 at 2.15 p.m. to explain on what basis, he has detained the petitioner's vehicle bearing Registration No.TN 20 BV 3609 with goods, when he has furnished all the documents properly to him.

6. Post the matter on 29.06.2015 at 2.15 p.m. In the meanwhile, the respondent is directed to release the goods forthwith for the reasons stated above."

5.On 06.07.2015, the respondent had appeared before this Court and the learned Government Advocate (Tax) has submitted that, only to verify whether the goods laden in the vehicles were accompanied with all requisite documents, the vehicles were detained. Therefore, no malafide can be attributed against the officer.

6.Hence, this Court on 06.07.2015, has made the following observation:-

"3.This Court is unable to find any justification. The reason is that I mentioned in my earlier orders dated 24.06.2015 the petitioner's imported goods were moved with Form KK dated 16.06.2015 as prescribed under Rule 15 (14) of the TNVAT Rules, 2007. That apart, transit pass dated 16.06.2015, bill of entry etc., were also in possession of the driver. This Court, keeping in mind that the goods were detained for about seven days for no reason, directs the respondent to file an affidavit as

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

to why costs of Rs.25,000/- should not be imposed against him."

7.Today, as directed by this Court, the respondent has filed an affidavit dated 20.07.2015 wherein, in paragraph No.13, it has been stated as follows:-

> "13.It is respectfully submitted that in the present case, the importer has already defied the Rules by diverting movement of goods intentionally and tried to suppress the imports by means of raising sale invoices on behalf of a dealer who is non functional as per the Government records. Moreover, the vehicles supporting documents have been processed at one exist and the movement was effected through another exit by entering again into the Port premises which created sufficient grounds to suspect the movement of the importer. Considering the ground realities pertaining to this case, it was felt justified to recheck the bonafideness of the diversion in the movement and hence the detention orders were issued. Thus, it is submitted that the detention was ordered only with a view to verify the genuineness of the transaction and with intention of safeguarding the interest of the Government revenue."

8.The learned Additional Government Pleader (T) appearing for the respondent would submit that without replying the goods detention notice issued by the respondent dated 17.06.2015, the petitioner has approached this Court with these writ petitions. Hence, according to the learned Additional Government Pleader, these writ petitions are not maintainable before this Court. The reasons stated by the respondent for the detention of the goods of the petitioner are acceptable by this Court.

9.In view of all the above, nothing survives in these writ petitions. Hence, the writ petitions are closed. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

jbm

https://hcservices.ecourts.gov.in/hcservices/

To

The Commercial Tax Officer,
Roving Squad - II,
Enforcement (North)
Greams Road,
Chennai - 600 006.

+1 cc to The Special Government Pleader(Taxes), sr.38327

+1 cc to Mr.A.P.Srinivas, Advocate, sr.38980

vd(co)
kra(26/08)

सत्यमेव जयते
WEB COPY