IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.19102 & 19103 of 2015

Samruddhi Industries Ltd. [Petitioner]
Represented by its Authorised Signatory
Plot No.39 & 42 IP Valasapalle
Madanapalle, Chittoor AP.

Vs

The Deputy Commercial Tax Officer
Ranipet Outward Checkpost @ Serkadu
Katpadi Taluk. [Respondent]

PRAYER : The Writ petitions are filed under Article 226 of the Constitution of India praying for a Writ of certiorari to call for the records of the Respondent in his Proceedings in GD.No.2529 and 2528/2015-16 respectivel7 dated 18.06.2015 and quash the same and direct the Respondent to release the goods.

For Petitioner : Mr.J.Adithya Reddy
For Respondent : Mr.ANR.Jayapratap (GA(T)

C O M M O N O R D E R

Heard the learned counsel for the petitioner and Mr.ANR.Jayapratap, learned Government Advocate (T), who took notice for the respondent and with their consent, the main writ petition is taken up for disposal.

2. These two writ petitions have been filed by Samruddhi Industries Ltd., represented by its Authorised Signatory, challenging the impugned notices dated 18.06.2015, in and by which, the 1st respondent has detained the petitioner's goods with vehicle, citing a reason that on verification it was noticed that no valid e-transit pass (or) transit pass from the assessing authority concerned was available for transport of 6th Schedule goods at the time of check. Aggrieved against the said detention, these writ petitions are brought before this Court under Article 226 of the Constitution of India.

3. Learned counsel for the petitioner has pleaded before this Court that after placing the order for 2400 bags of plastic granules from Singapore for use of raw material, the goods landed in Chennai port on 15.06.2015 and were being transported to the petitioner's

factory in Chittoor, Andhra Pradesh. Since none of the goods were meant for local consumption in Tamil Nadu, the goods vehicles which were carrying a part of the consignments bearing registration No.TN 48 AY 1288 and TN 04 AP 6213 respectively were intercepted by the respondent at Ranipet checkpost on 16.06.2015 at 4.50 a.m. and 4.45 a.m. respectively and detained the goods on the basis that the goods were not accompanied with a valid e-transit pass or transit pass obtained from the concerned assessing officer. According to him, the respondent ought to have seen that all the documents accompanying the goods including Bill of Lading clearly indicated that the goods were meant for delivery at Chittoor, Andhra Pradesh. Although e-transit pass for both the vehicles was not available, it does not lead to a presumption that the goods are being sold within the State and there is evasion of tax. Finally, agreeing that the drivers of the vehicles were not in possession of e-transit pass or transit pass obtained from the concerned Assessing Officer, learned counsel for the petitioner submitted that the petitioner is prepared to pay one time tax in each of the case and on payment of the same, a direction may be given to the respondent to release the goods along with the vehicles forthwith.

4. Mr.ANR.Jayapratap, learned Government Advocate (Taxes) submitted that the respondent has detained the goods on the ground that no e-transit pass or transit pass obtained from the concerned Assessing Officer was available with the goods at the time of interception. However, if the petitioner comes forward to pay one time tax, the goods may be directed to be released forthwith.

5. In view of the above, as the petitioner has come forward to pay one time tax at 5% viz., Rs.88,224/- in each of the case, the respondent is directed to release the goods along with the vehicles forthwith on payment of the said sum.

The writ petitions are disposed of accordingly. No costs.

rg

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To
The Deputy Commercial Tax Officer
Ranipet Outward Checkpost @ Serkadu
Katpadi Taluk.

+ 1 cc to Mr.Adittiya Reddy, Advocate SR 32526

scd(co)
prk1/7

W.P.Nos.19102 & 19103 of 2015