IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.19997 of 2015
and
M.P.No.1 of 2015

M/s.Vividh Print Media Pvt. Ltd.
Repd. by its Manager R.Bhavani
New No.6 Old No.7 Sannathi Street
Aminjikarai,
Chennai-600 029. [Petitioner]

Vs

The Deputy Commercial Tax Officer
Roving Squad III Enforcement (North)
Chennai-600 006. [Respondent]

PRAYER : The Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorarified mandamus to call for the records pertaining to the impugned Goods Detention Notice No. 6040/2015-16 (CT) dated 02.07.2015 passed by the respondent and quash the same and further direct the respondent to release the goods detained by him.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader(T), who took notice for the respondent and with their consent, the main writ petition is taken up for disposal.

2. This writ petition has been filed by M/s.Vividh Print Media Pvt. Ltd., represented by its Manager R.Bhavani, challenging the notice dated 02.07.2015, in and by which, the Deputy Commercial Tax Officer, Roving Squad III, Enforcement (North), Chennai, finding that the driver of the vehicle failed to have the Goods Vehicle record or trip Sheet and Lorry Receipt for transport of goods, as per Section 69 of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the Act"), has come to the conclusion that the imported goods were carried without a valid document and therefore, unloading of the goods in an unregistered place of business of the dealer viz., Chittal paper Company, Godown at Plot No.16 and 17, Mahaveer Estate, Payasambakkam, Vadaperambakkam, Thiruvallur District, is in violation of Section 69 of the Act and on that basis, he has given an option to the dealer to pay the tax of Rs.85,525/- and Compounding Fee of Rs.1,71,050/-, within 7 days from the date of receipt of such notice, failing which, further action would be initiated.

3. Assailing the above said impugned notice, learned counsel for the petitioner would submit that at the time of detention, the invoice was under preparation for the reason that the petitioner was awaiting a copy of the assessed bill of entry from the Customs Department. Further, he would submit that absolutely there is no intention to evade payment of VAT for the reason that the petitioner had received the advance amount from the buyer through bank channels and therefore, the transaction was a genuine one.

4. Adding further, the learned counsel for the petitioner would submit that the petitioner is engaged in the business of all kinds of papers including carbon less and thermal papers and in the course of their business, the petitioner Company at New Delhi has imported carbon less paper vide bill of entry No.9723004 dated 29.06.2015 and after importing the same, they were sold to M/s Chittal paper Company under the cover of Invoice No.41 dated 02.07.2015. However, according to him, the said consignment was detained by the respondent on the ground that as per Form KK, the goods have to be moved to the petitioner's place at No.5, Dhanalakshmi Nagar, Sivabootham Village, Vanagaram, Chennai, but it was moved to M/s Chittal Paper Company and the petitioner started unloading of goods at an unregistered place. Therefore, the respondent has issued Goods Detention Notice dated 02.07.2015, asking to pay the tax amount of Rs.85,525/- along with compounding fee of Rs.1,71,050/- within a period of seven days from the date of receipt of such notice.

5. In this background, according to the learned counsel for the petitioner, the grievance of the petitioner is that the respondent, after intercepting the goods, has to find out whether the petitioner has paid the tax for the goods before the same being detained. If the tax is paid or the security is furnished, then the goods so detained, have to be released forthwith, as per Section 67(4) of the Act. But, in the present case, the respondent, after detaining the goods, causing so much of hardship to the petitioner, has also compelled the petitioner to compound the offence, without giving any option.

6. It is at this time, Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing for the respondent submitted that it is an admitted case of movement of goods without any document like KK Form, Invoice and e-transit pass. Further, according to him, a reading of the impugned order clearly shows that even the goods vehicle record was also not available with the driver. Therefore, rightly, the Deputy Commercial Tax Officer, Roving Squad III, Enforcement (North), has detained the goods. Hence, if the petitioner comes forward with an option of payment of one time tax and seeks for release of goods, the same may be directed to be considered by the respondent. Further, according to him, as far as compounding of offence is concerned, if the petitioner is so aggrieved, it is for him to work out his remedy in accordance with law.

7. Learned counsel for the petitioner readily agreeing for the said proposition made by the learned Additional Government Pleader (Taxes) appearing for the respondent, submitted before this Court that the petitioner is prepared to pay one time tax, even tomorrow and he would be contesting the matter with regard to compounding of offence, as the transaction was genuine.

8. In view of the above submissions made by the learned counsel on either side, if the petitioner goes back to the Deputy Commercial Tax Officer, Roving Squad III, Enforcement (North), the respondent herein and make one time payment of tax viz., Rs.85,525/- (Rupees eighty five thousand five hundred and twenty five only), the respondent, is directed to release the goods. As far as compounding of offence is concerned, it is for the petitioner to work out his remedy in the manner known to law.

With the above direction, the writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer
Roving Squad III Enforcement (North)
Chennai-600 006.

1 CC to Mr.Hari Radhakrishnan, Advocate SR.No. 34082

1 CC to the Spl. Government Pleader, SR.No. 33953

W.P.No.19997 of 2015

CA (CO)
PSI (09.07.2015)