IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21241 of 2015

M/s Kiran Distributors
represented by its Proprietor
No.63, Perumal Koil Garden II Lane
Sowcarpet
Chennai 600 079 .. Petitioner

-vs-

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

2. The Assistant Commissioner (CT)
Peddunaickenpet Assessment Circle
Rajaji Salai
Chennai 600 001 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent in Goods Detention Notice No.7087/2015-2016 dated 13.07.2015 and quash the same and further direct the first respondent to release the detained S.S.Circles to the petitioner without insisting on any condition.

For Petitioner :: Mr.P.Rajkumar

For Respondents :: Mr.Manoharan Sundaram
Addl.Government Pleader (Taxes)

ORDER

This writ petition has been filed by M/s Kiran Distributors represented by its Proprietor challenging the impugned goods detention notice No.7087/2015-2016 dated 13.07.2015 in Form No.41 issued by the Commercial Tax Officer, Roving Squad-II, Enforcement (North), Chennai , the first respondent herein, in and by which the consignment of the petitioner had been detained on the ground that the goods were transported in a different Goods Vehicle bearing Registration No.AP-04-TU-7189, when the goods were accompanied by all the documents required under Section 69 of the Tamil Nadu Value Added Tax Act, 2006 (for short, ''the TNVAT Act'').

2. Learned counsel for the petitioner submitted that the petitioner is a registered dealer in stainless steel articles on the file of the Assistant Commissioner (CT), Peddunaickenpet Assessment Circle under the provisions of the TNVAT Act. In the course of business, the petitioner requested their supplier M/s A to Z Metals Industries, Jodhpur to supply stainless steel circles to them and the supplier by raising invoices bearing Nos.7 & 8 dated 8.7.2015, supplied 281 bundles of stainless steel circles carrying value of Rs.21,67,800/- inclusive of the central sales tax of Rs.21,462/-. When the goods were despatched through truck bearing Registration No.RJ-19-GB-4008 from Jodhpur to Ahmedabad and from Ahmedabad to Chennai in the goods vehicle bearing Registration No.AP-04-TU-7189 engaged by the transporter M/s South Transport Company, Jodhpur, admittedly the goods were accompanied with invoice Nos.7 & 8 dated 8.7.2015 raised by the supplier. While so, the first respondent intercepted the vehicle on 13.7.2015 at about 12.20 A.M., for verification of the goods and the records available with the goods vehicle. Finding that the goods were accompanied with the required documents such as tax invoice Nos.7 & 8 dated 8.7.2015 raised by the supplier and the lorry receipt, the first respondent wrongly detained the goods vehicle, citing a reason that the goods were transported in Goods Vehicle bearing Registration No.AP-04-TU-7189 when the lorry receipt was issued for the goods vehicle bearing Registration No.RJ-19-GB-4008. Finding fault with the approach adopted by the first respondent, it has been claimed by the petitioner that the petitioner, being a registered dealer in the State of Tamil Nadu, has been regularly carrying the goods from Jodhpur to Chennai along with necessary documents as required under Section 69 of the TNVAT Act. In the present case also, it is not disputed by the first respondent that the goods were not accompanied with the requisite documents. But the only problem raised by the detention officer shows that the goods were transported in goods vehicle bearing Registration No.AP-04-TU-7189 as against the goods vehicle bearing Registration No.RJ-19-GB-4008.

3. Replying to the said stand taken by the detention officer, it was submitted that when the goods were moving from Jodhpur to Chennai via Ahmedabad, when the goods reached Ahmedabad, the previous vehicle got changed, however, the goods were heading towards Chennai only. In any event, it has been pleaded by the learned counsel for the petitioner that when the first respondent has approximately valued the goods at Rs.21,67,800/-, to avoid further wastage of time and save the goods for on time delivery, sought for immediate release of the goods on payment of one time tax.

4. Mr.Manoharan Sundaram, learned Additional Government Pleader (Taxes) for the respondents submitted that there is no proof whatsoever, although the goods moved from Jodhpur to Chennai via

Ahmedabad, for the reasons best known to them, when they moved the goods from the vehicle bearing Registration No.RJ-19-GB-4008 to the vehicle bearing Registration No.AP-04-TU-7189, that has not been duly reflected in the subsequent invoices and cross checked in other check posts.

5. Be that as it may, when the petitioner has come forward to effect one time tax that will be quantified by the first respondent, this Court finds no impediment to direct the first respondent to release the goods in question to the petitioner on payment of such one time tax. Accordingly, on receipt of a copy of this order, the first respondent is directed to quantify the amount of tax within a day and thereafter, on proper quantification of the one time tax by the first respondent, the petitioner will pay the said amount before the second respondent-assessing officer. On proof of such payment, the first respondent is further directed to release the goods forthwith to the petitioner. With the above direction, the writ petition is disposed of accordingly. Consequently, M.P.No.1 of 2015 is closed. No costs.

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-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

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

2. The Assistant Commissioner (CT)
Peddunaickenpet Assessment Circle
Rajaji Salai
Chennai 600 001

+ 1 cc to Mr.P.Rajkumar, Advocate SR 35762

+ 1 cc to Special Govt.Pleader, High Court, Madras 35820

bvr(co)
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