IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21537 of 2015
and
M.P.No.1 of 2015

Durgesh Distributors
Rep.by its Proprietor Sunil Jain
NO.14/9, Ekambareswarar Agraharam
(Minit Street), Park Town,
Chennai-600 003. [Petitioner]

Vs

1 The Deputy Commercial Tax Officer
Roving Squard- III Enforcement
(Central) Chennai-600006

2 The Assistant Commissioner (CT)
Moore Market (South) Assessment Circle
Chennai-600 001 [Respondents]

PRAYER : The Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorari calling for the records on the files of the 1st respondent in G.D.No. 1028/ RS-III/ C/ 2015-16 dated 20.6.2015 and quash the same as being without jurisdiction and authority of law.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.V.Haribabu, AGP(T)

O R D E R

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

2. This writ petition is filed by Durgesh Distributors, represented by its proprietor Sunil Jain, challenging the goods detention notice (Form No.041) dated 20.06.2015, in and by which, the Deputy Commercial Tax Officer, Roving Squad III, Enforcement (Central), Chennai, has detained the goods of the petitioner, stating the reason therefor that the documents produced by the driver on verification indicates variations in weight.

3. Assailing the impugned order, learned counsel for the petitioner would submit that the case of the petitioner is that the petitioner is a registered dealer in Stainless Steel Patta, Coil, Strips, Sheets, Scraps and Vessels etc., and registered under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the Act"), as per registration TIN 33280361408 and also registered as a dealer under the CST Act as per registration CST 920547. He would further submit that the petitioner being an assessee on the file of the 2nd respondent, has made purchases of 120 bundles of S.S.Patta on 07.06.2015 from Tvl.Babu Steel House, who is the seller in Bhiwadi (Rajasthan State). Thereafter, the goods were transported through Tvl.J.S.P.Roadways, whose registered Office is in Wazirpur Industrial Area, Delhi. Adding further, learned counsel for the petitioner would submit that when the goods were carried away on the vehicle No.HR 38J 0160 along with valid documents, such as LR, copy of sale invoice issued by the Seller, on interception by the 1st respondent, the goods were detained and the 1st respondent has not considered the request made by the petitioner as well as the Transporter. However, applications dated 02.07.2015 and 03.07.2015 seeking release of consignment are pending consideration and till date no order has been passed. Therefore, the petitioner has come to this Court.

4. Adding further, learned counsel for the petitioner would submit that when the consignment has been accompanied by the requisite documents referred to in Section 67(5) of the Act, as per Section 67(3), the 1st respondent ought to have released the consignment.

5. Learned counsel for the petitioner further submitted before this Court that the petitioner is prepared to pay one time disputed tax and on such payment, the goods may be directed to be released.

6. It is at this point of time, Mr.V.Haribabu, learned Additional Government Pleader (Taxes) submitted that since the petitioner has come forward to pay one time disputed tax, on being

quantified by the 1st respondent, the petitioner can pay the same and on such payment, the goods will be released.

7. Recording the submission made by the learned counsel on either side, this Court directs the 1st respondent to quantify the one time tax payable by the petitioner and thereafter, it is for the petitioner to pay the same. On such payment being made by the petitioner, the 1st respondent is directed to release the goods. It is made clear that it is for the petitioner to challenge the proceedings of the 1st respondent in appropriate proceedings by way of revision.

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

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1 The Deputy Commercial Tax Officer
Roving Squard- III Enforcement
(Central) Chennai-600006

2 The Assistant Commissioner (CT)
Moore Market (South) Assessment Circle
Chennai-600 001

1 CC to Mr.R.Senniappan, Advocate SR.No. 36452

1 CC to the Government Pleader, SR.No. 36488

W.P.No.21537 of 2015

SKV (CO)
PSI (23.07.2015)