In the High Court of Judicature at Madras

Dated: 22.07.2015

Coram:

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition No.22011 of 2015
and
M.P.No.1 of 2015

Tvl. Meenakshi Paper Stores
Rep. by its Propx. Tmt.S.P.Rajeswari
No.69, 1st Street, Agraharam, Salem-636 001. ... Petitioner

Versus

1 Commissioner of Commercial Taxes
Ezhilagam, Chepauk, Chennai-600 005.

2 The Joint Commissioner (CT)
Enforcement Wing, Trichy.

3 The Deputy Commissioner (CT)
Enforcement Wing DC (CT) (Enf)
Trichy Group Court Campus Contonment.
Trichy.

4 The Deputy Commercial Tax Officer
Katpady Check Post, Chittor Road
A.P.Boarder, Katpaty Taluk,
Vellore District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Notice issued by the 4th respondent in G.D.No. 1548/2014-15 dated 28.06.2015 and quash the same and to direct the 4th respondent to release the goods detained on 27.06.2015.

For Petitioner .. Mr.A.S.Mujibur Rahman

For Respondents.. Mr.S.Kanmani Annamalai
Additional Govt. Pleader (T)

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondents. With the consent of both sides, the Writ Petition itself is taken up for final disposal.

2. This Writ Petition has been filed by Meenakshi Paper Stores, represented by its Proprietrix Tmt.S.Rajeswari, challenging the impugned order issued by the Deputy Commercial Tax Officer, Katpadi Checkpost, in G.D.No.1548/2014-15 dated 28.06.2015, in and by which, the Deputy Commercial Tax Officer, Katpadi Checkpost, on verification of the bills, delivery address, TIN Number and CST Number - not noted, found that there is violation of Rule 5 of TNVAT Act 2006 and therefore, he has ordered to retain the goods, however, he has come to the conclusion that the petitioner/dealer has to pay the above amount by cash or Demand Draft to the Deputy Commercial Tax Officer, Katpadi Checkpost, within three days to get the release of the goods.

3. The learned counsel appearing for the petitioner would submit that the petitioner, being the registered dealer dealing in trading of papers, has purchased the paper from International paper APPM Limited from Rajamundry, Andhra Pradesh, through invoice cum Challan No.004103 dated 26.06.2015 for Rs.8,91,238/- subsequently, when the goods were moved through the transport Savani Carrying Private Limited, Vijayawada, under the transit issued under Section 6 (2)(b) of the CST ACT, 1956, 2% CST Tax had been collected from the petitioner and the entire Excise Duty, Cess etc., have also been correctly collected from the petitioner. Adding further, the learned counsel for the petitioner would submit that ignoring these aspects, the fourth respondent issued Goods Detention Notice in Form No.041 in No.1548/2015-16 dated 27.06.2015 for the following reasons:-

> "The goods transported from Rajamundry A.P to Namakkal. The delivery address to be verified. TIN No. and CST No. not noted in the invoice. Hence the goods detained at Katpadi Check post at Drivers own risk."

4. Assailing the above reasons, the learned counsel for the petitioner would further submit that the notice issued by the 4th respondent to the vehicle driver that there is a violation of Rule 5 of the TNVAT Act 2006 is wholly unwarranted. However, he has submitted that in order to avoid further loss of time, the petitioner is prepared to pay the one time tax reserving his right to challenge the impugned order before the Revisional Authority.

5. Learned Additional Government Pleader (taxes) appearing for the respondent in reply submitted that if the petitioner comes forward to pay the one time tax for release of the goods, on payment of the entire one time tax indicated in the order, the fourth respondent will not hesitate to release the goods.

6. Recording the submissions made by both the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), this court directs the petitioner to pay the one time tax before the Assessing Officer and on showing the proof of payment of one time tax, the 4^{th} respondent is directed to release the goods. It is left open to the petitioner to challenge the correctness of the impugned order by filing revision order.

7. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

mra

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1 Commissioner of Commercial Taxes
Ezhilagam, Chepauk, Chennai-600 005.

2 The Joint Commissioner (CT)
Enforcement Wing, Trichy.

3 The Deputy Commissioner (CT)
Enforcement Wing DC (CT) (Enf)
Trichy Group Court Campus Contonment.
Trichy.

4 The Deputy Commercial Tax Officer
Katpady Check Post, Chittor Road
A.P.Boarder, Katpaty Taluk,
Vellore District.

+ 1 cc to Mr.A.S.Mujibur Rahman, Advocate SR 37392

+ 1 cc to Special Govt.Pleader (Taxes) SR 37241

cnr(co)
prk24/7

Writ Petition No.22011 of 2015
and
M.P.No.1 of 2015