IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.22404 of 2015
and M.P.No.1 of 2015

M/s. Kiran Distributors [Petitioner]
Represented by its Proprietor
No.63 Perumal Koil Garden II Lane
Sowcarpet, Chennai-79.

Vs

1 The Commercial Tax Officer
Roving Squad-IV Enforcement (North)
Greams Road Chennai-6.

2 The Assistant Commissioner(CT)
Peddunaickenpet Assessment Circle
Rajaji Salai Chennai-1. [Respondents]

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 impugned proceedings of the 1st respondent in Goods Detention Notice No.6542/15-16/Rs-IV (N) dated 18.7.2015 and quash the same and further direct the 1st respondent to release the detained the S.S. Circles and S.S. Utensils to the petitioner without insisting on any condition.

For Petitioner : Mr.P.Rajkumar
For Respondents: 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 respondents and with their consent, the main writ petition is taken up for disposal.

2. This writ petition has been filed by M/s. Kiran Distributors represented by its Proprietor, challenging the goods detention notice (Form No.041) No.6542/15-16/Rs-IV (N) dated 18.7.2015, wherein, the Commercial Tax Officer, Roving Squad-IV Enforcement (North), Greams Road Chennai has detained the goods of the petitioner for the reasons that (i) as per Gujarat Transit Pass

Sl.No.TP1501581925 dated 12.7.15, Consignor Name was mentioned as M/s A to Z Metals Industries and the Consignee Name was mentioned as Tvl.Shree Tanotrai Metal, but, the invoice was raised in the name of the petitioner (ii) Movement of the transaction is highly suspicious and (iii) Check post seal not available and for a further direction to the 1st respondent to release the detained the S.S. Circles and S.S. Utensils to the petitioner without insisting on any condition.

3. Learned counsel appearing for the petitioner would submit that the petitioner who is a registered dealer in stainless steel articles, registered on the file of the Assistant Commissioner (CT), Peddunaickenpet Assessment Circle under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the Act"). He would further submit that the petitioner, in the course of business, requested its supplier M/s A to Z Metals Industries, Jodhpur to supply S.S.Circles and S.S. Utencils to them. The supplier, by raising invoices bearing Nos.15, 16 and 17 dated 12.07.2015 valued S.S.Circles and S.S.Utencils at Rs.25,93,770/- inclusive of CST Tax of Rs.25,570/-. That apart, according to him, when the goods were dispatched through Truck No.RJ 19 GC 4008 from Jodhpur to Chennai, the 1st respondent at about 6.45 a.m. on 18.07.2015, intercepted the vehicle and on verification of the goods and records available with the goods vehicle, even though when the goods were accompanied with required documents such as tax invoice Nos.15, 16 and 17 dated 12.07.2015, raised by the supplier and the lorry receipts, he has detained the goods and vehicle and issued the impugned Goods Detention Notice dated 18.07.2015 for the reason that in the Gujarat Transit Pass, the Consignor Name was mentioned as M/s A to Z Metals Industries and the Consignee Name was mentioned as Tvl.Shree Tanotrai Metal, but, the invoice has mentioned the petitioner's name. Therefore, the grievance of the petitioner, according to the learned counsel for the petitioner is that when they have transported the goods supported by the documents as contemplated under Section 69 of the TNVAT Act, it is not open to the 1st respondent to say that the petitioner has wrongly or illegally moved the goods.

4. Adding further, learned counsel for the petitioner would submit that the only contentious issue for which the goods have been detained was that the invoice dated 12.07.2015 although correctly mentioned the name of the petitioner, the Gujarat Transport Pass dated 12.07.2015, while mentioning correctly the name of the Consignor viz., M/s A to Z Metals Industries, has not mentioned the correct name of the consignee. However, the learned counsel for the petitioner 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.

5. It is at this point of time, Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) agreeing with the proposal made by the petitioner, submitted that since the petitioner has come forward to pay one time disputed tax, on being quantified, the

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

6. Recording the submission made by the learned counsel for the petitioner that the petitioner is prepared to pay one time tax immediately for the release of the goods and the submission made by the learned Additional Government Pleader (Taxes), this Court directs the 1st respondent to quantify the one time tax payable by the petitioner immediately on production of the copy of this order and thereafter, it is for the petitioner to pay the same. On receipt of proof of such payment being made by the petitioner, the 1st respondent is directed to release the goods forthwith. 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.

rkm

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1 The Commercial Tax Officer
Roving Squad-IV Enforcement (North)
Greams Road Chennai-6.

2 The Assistant Commissioner(CT)
Peddunaickenpet Assessment Circle
Rajaji Salai Chennai-1.

+ 1 cc to Mr.P.Rajkumar, Advocat SR 37698

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 37969

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