IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.24897 of 2015

and M.P.Nos.1 and 2 of 2015

M/s.Kohinoor Traders,
Rep. By its Manager - Suresh Kumar,
No.12, Old Market Street,
Shevapet,
Salem 636 002,
Salem District.

... Petitioner

-Versus-

1.The Assistant Commissioner (CT),
Gugai Circle,
Salem, Salem District.

2.The Check Post Officer,
Deputy Commercial Tax Officer,
Hosur Inward Check Post,
Hosur, Krishnagiri District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorari calling for the records of the 2nd respondent relating to the proceedings in Goods Detention Notice No.11421/2015-16, dated 28.07.2015 and to quash the same as illegal and against the provisions of the Act.

For petitioner : Ms.R.Hemalatha

For respondents : Mr.S.Manohar Sundaram,
AGP (Taxes)

ORDER

The petitioner is a dealer engaged in trading Ceramic Tiles. It has got registered with respondent under the Tamil Nadu Value Added Tax Act, 2006. While so, during the routine course of the business of the petitioner, its vehicle was intercepted on 27.07.2015 in the inward check-post at Hosur and after inspection, the goods have been detained by the authority on various grounds including the alleged evasion of tax under the provisions of the TN VAT Act. Accordingly, a Goods Detention Notice came to be issued on 28.07.2015 to the petitioner. Challenging the above said notice , the petitioner is now before this court.

2. Heard both sides and also perused the records carefully.

3. While invoking Section 67 of The Tamil Nadu Value Added Tax Act, 2006, the reason adduced by the 2nd respondent for detaining the goods are as follows:-

> "1. Continuously nil return filed for last 3 months.
> 2. The business place was closed.
> 3. Irregular return filed for the year 2014-15 and taxes not paid."

4. A perusal of the impugned order would go to show that the power vested with the assessing authority has been misconstrued and usurped on which basis the goods in question came to be detained by the 2nd respondent. The act of the 2nd respondent is arbitrary and high handed which leads to committal of gross impropriety. The reasons are insufficient for detention. Thus, the 2nd respondent is directed to release the goods forthwith and place all the materials to the concerned assessing authority namely, the 1st respondent with whom the petitioner got registered itself and it is always open for the 1st respondent to take appropriate action by considering the matter in detail and pass appropriate orders on merits and in accordance with law. No costs. Consequently, connected MPs are closed.

Sd/--
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Assistant Commissioner (CT), Gugai Circle, Salem, Salem District.

2.The Check Post Officer, Deputy Commercial Tax Officer, Hosur Inward Check Post, Hosur, Krishnagiri District.

+1 cc to Special Government Pleader sr.44214
+1 cc to MS.R.Hemalatha Advocate sr.43624

W.P.No.24897 of 2015

aa21/08/2015