IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26311 of 2015

M/s.Emerald Enterprises [Petitioner]
represented by its Proprietor
S.Manohar

Vs

The Deputy Commercial Tax Officer &
The Check Post Officer
K.G. Chavdi Check Post (Outgoing)
Coimbatore-641 105.
[Respondent]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records of the respondent in G.D.No.561/15-16 dated 17.08.2015, and quash the impugned proceedings and further direct the respondent to release the goods detained.

For Petitioner : Mr.M.Arunachalam

For Respondent : Mr.S.Manohar Sundaram AGP(T)

O R D E R

The petitioner-Company is having its registered office at No.32/50, Giri Road, T.Nagar, Chennai-600 017 and the petitioner is the registered dealer under the Tamil Nadu Value Added Tax Act 2006 with TIN 33131562884 and CST No.1067750 dated 08.01.2014 and assessee on the file of the Assistant Commissioner (CT), T.Nagar, Chennai. The petitioner is a dealer in Non Ferrous Metal, MS Sheets,etc., and paying VAT on their sales. Being so the petitioners have despatched one consignment vide their invoice No.3828 dated 07.08.2015 to the buyer in Kerala levying 2% tax against C Form, the respondent officer detained the goods and issued Goods detention notice No.561/2015-16 dated 08.08.2015. The said notice was not served either to the driver of the vehicle or to the petitioner and affixed on the vehicle. After ascertaining the facts from the driver, the petitioner approached the respondent and obtained the copy of the notice and explained the nature of transaction but the respondent was not accepting the same and issued a further notice in GDR. NO.561/15-16 dated 17.08.2015, in which the petitioner was directed to pay advance tax of Rs.37,375/- on a turnover of Rs.7,47,517/- and a

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compounding fee of Rs.74,750/- within seven days from the receipt of the notice. Challenging the same, 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 respondent for detaining the goods are that the petitioner has not filed any objections for the show cause notice issued by the assessing officer and the turnover has not been shown in the CST monthly returns for the months of January 2015 and February 2015.

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 respondent. The act of the respondent is arbitrary and high handed which leads to committal of gross impropriety. The reasons are insufficient for detention. Thus, the respondent is directed to release the goods forthwith and place all the materials to the concerned assessing authority with whom the petitioner got registered itself and it is always open for the concerned authority to take appropriate action by considering the matter in detail and pass appropriate orders on merits and in accordance with law.

This Writ Petition is disposed of accordingly. No costs.

arr

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer
The Check Post Officer
K.G. Chavdi Check Post (Outgoing)
Coimbatore-641 105.

1 cc to Mr.M.Arunachalam , Advocate Sr.No.44627
1 cc to Government Pleader.Sr.No.44637

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scd(co)
pmk.25.8.2015

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