IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.27354 of 2015

M/s.Om Sai Parcel Movers
Rep by its Authorised Signatory
No.11, Nainiappan Street
Chindatripet, Chennai 2. [ Petitioner ]

Vs

Commercial Tax Officer
Roving Squad I Enforcement (North)
Greams Road, Chennai 6 [ Respondent ]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the respondent in his proceedings in G.D. No.8034/2015-16/RS-I (N) dated 21.8.2015 and quash this detention order as illegal and direct the respondent to release the goods vehicle detained after collecting the taxes from the actual consignees or keeping the goods in the Godown of the Puzhal Check Post.

For petitioner : Mr.Baktha Sironmani

For respondent : 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 (Taxes), who took notice for the respondent and with their consent, the main writ petition is taken up for disposal.

2. This writ petition has been filed challenging the proceedings of the respondent in G.D. No.8034/2015-16/RS-I (N) dated 21.8.2015 and to direct the respondent to release the goods vehicle detained after collecting the taxes from the actual consignees or keeping the

goods in the Godown of the Puzhal Check Post.

3.1 The petitioner is operating mini truck TATA 407 vehicle to transport goods locally in Chennai. The petitioner has transported parcel of goods belonging to another transport company in Madhavaram for various dealers in Chennai for whom parcel of goods are received from the sellers in Delhi. The petitioner has transported the parcel of goods from the transporters yard in Madhavaram to the actual consignees in Chennai as the huge truck carrying parcel of goods cannot enter into the Chennai City in day time. At the time of transshipment of goods from the truck carrying goods from Delhi to this mini truck, the same was detained by the respondent.

3.2 According to the petitioner, on 17.08.2015, at about 06.00 p.m., when the petitioner has loaded a portion of parcel goods from a truck which carried parcels of goods to various consignees in Chennai, it was checked by the respondent at the lorry shed. All the bills and invoices are available with the truck transporting the goods from New Delhi to Chennai. When the goods are loaded from the Truck to the Mini Van TN 07 T 8067, the respondent has intercepted and taken the vehicle to Puzhal check post, even though the petitioner has reported that all the bills and invoices are available with the driver of the truck. On 21.08.2015, the respondent issued goods detention notice, by stating that no documents are available and the driver of the vehicle neither provided the name of the consignor nor the consignee and where the goods are to be delivered. Aggrieved over the same, the petitioner is before this Court.

4. According to the learned counsel for the petitioner, for the purpose of verifying the genuineness of the transaction, the goods came to be detained by the respondent. It is the contention of the learned counsel for the petitioner that all the necessary required documents had been enclosed. However, the impugned order proceeds to say that the petitioner did not produce the required documents at the time of check. The respondent has no right to detain the goods when the goods are moved with proper records as required under Sections 68 and 69 of the TNVAT Act. Further, according to him, the petitioner's right to do business under Article 19(1)(g) is affected. That apart, according to him, even now the petitioner is able to produce the copies of required documents to the satisfaction of the respondent.

5. This Court considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. For the purpose of release of goods, the petitioner is directed to appear before the respondent along with copies of required documents and on such production of the same and upon payment of the required taxes viz., Rs.36,104/- plus Rs.46,853/-, the respondent shall release the consignments forthwith. With regard to compounding fee, it is always open to the petitioner to challenge the same in the manner known to law.

With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

Commercial Tax Officer
Roving Squad I Enforcement (North)
Greams Road, Chennai 6

1 CC to Mr.Baktha Sironmani, Advocate SR.No. 47217

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CTK (CO)
PSI (02.09.2015)