IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.31617 of 2015
and
M.P.No.1 of 2015

Tvl.Sreevasta Tube Corporation
rep. by Managing Director
C.V.Ravindranath .. Petitioner

Vs

The Commercial Tax Officer(Enf),
Roving Squad, Vellore. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records on the file of the respondent in G.D.No.581/15-16 dated 30.09.2015 and quash the same being illegal, invalid and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.V.Haribabu,
Addl. Govt. Pleader (T)

ORDER

Heard the learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes), who takes notice for the respondent.

2.This writ petition has been filed, challenging the Goods Detention Notice No.581/15-16 dated 30.09.2015 issued by the respondent.

3.The petitioner is a dealer in Seamless and ERW boilers tubes and assessee on the file of the Assistant Commissioner (CT), Broadway Assessment Circle, Chennai. The petitioner purchased goods from M/s.M.K.K.Metal Section Private Limited, Ranipet vide Bill No.04113 dated 29.09.2015 and hired a lorry bearing Regn. No.TN 25 J 3177 to transport the said consignment to Lalgudi. During transit, the respondent detained the goods and without verification issued Goods

Detention Notice No.581 dated 30.09.2015 stating that the consignment invoice shows Ranipet to Chennai but the trip sheet shows Ranipet to Lalgudi. Though the petitioner appeared before the respondent and submitted a representation stating that the sales was within the State and he purchased the goods by paying tax at the rate of 5%, the respondent refused to receive the representation and advised the petitioner to pay advance tax and compounding fees for release of the goods. Aggrieved over the same, the petitioner is before this Court.

4.The learned counsel for the petitioner submitted that there is no evasion of sales tax in the impugned transaction and the detention notice issued by the respondent is illegal and arbitrary. That apart, according to the learned counsel, the respondent failed to consider the fact that the goods were accompanied by invoice and other documents and that there is no failure to pay or attempt to evade tax. Hence the learned counsel for the petitioner has sought for allowing of the writ petition.

5.The learned Additional Government Pleader (Taxes) on the other hand would submit that since the goods were transferred without valid invoice, the goods were detained.

6.At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to pay one time tax and on such payment, the goods detained may be directed to be released.

7.In view of the submission made by the learned counsel for the petitioner that the petitioner is willing to pay one time tax and in order to give a quietus to the issue, for the purpose of release of goods, on payment of one time tax viz., Rs.56,512/- by the petitioner, the respondent, shall release the goods. With regard to compounding fee, it is always open to the petitioner to challenge the same in the manner known to law.

8.With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer (Enf),
Roving Squad, Vellore.

+ 1 cc to Mr.D. Vijayakumar, Advocate Sr.54275

W.P.No.31617 of 2015

GR(CO)
Eu 08.10.15