IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.32060 of 2015
and M.P.No.1 of 2015

M/s.Bhartiya International Limited [Petitioner]
Rep by its Authorised Signatory
Mr. C.Deenadayalan
No.118/2 Vepery High Road,
Periamet, Chennai-03.

Vs

1 The Commercial Tax Officer
Roving Squad Vellore.

2 The Assisant Commissioner (CT)
Vepery Assessment Circle Chennai.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the first respondent in Goods Detention Notice No.587/2015-16 quash the impugned proceedings dated 02/10/15 and further direct the first respondent to release the Sheep Wet Blue returned by the petitioner to its supplier in Lorry No.TN-23L-2777 Vide form JJ.No.737 dated 30/09/2015 (along with Delivery Challan No.008 dated 30/09/2015)

For petitioner : Mr.V.Sundareswaran

For respondents : Mr.V.Haribabu, Additional Government Pleader (Tax)

O R D E R

Heard the learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes), who took notice for the respondents and with their consent, the writ petition is taken up for disposal.

2. This writ petition has been filed challenging the proceedings of the 1st respondent in Goods Detention Notice No.587/2015-16 dated 02/10/15 and to direct the 1st respondent to release the Sheep Wet Blue returned by the petitioner to its supplier in Lorry No.TN-23L-2777 Vide form JJ.No.737 dated 30/09/2015 (along with Delivery Challan No.008 dated 30/09/2015).

3.1 The petitioner is a registered dealer on the files of the 2nd respondent under the provisions of the TNVAT Act and CST Act, dealing in "leather goods" and "garments", being an 100% export oriented Unit. The petitioner purchases the necessary wet blue skins locally from the registered dealer and thereafter make it into "garments" or "finished" skins as per the requirement of the customer and supplies the same to the Units which exports the goods to foreign countries.

3. 2 In the course of its business, the "Sheep Wet Blue Skins" were supplied/purchased from M/s ABCO Leathers Pvt. Limited, Ranipet, who are also registered dealer on the files of the Assistant Commissioner (CT), Ranipet Assessment Circle, under the provisions of the Act and the supplier made the supply vide delivery challan dated 24.08.2015. Each movement of goods was accompanied with proper documents. Finally, the supplier raised invoice dated 05.09.2015 for 1152 dozen of Wet Blue Sheep and imposed 5% sales tax. Out of such 1152 dozen, 350 dz found to be defective and hence returned back to the supplier vide delivery challan dated 30.09.2015. The approximate value of the returned goods were also declared in Form JJ. However, when the goods were moving to the supplier, the 1st respondent detained the goods vide impugned proceedings for the reason that the goods were transported with defective and invalid documents, by serving the detention notice on the driver of the vehicle who is not the owner of the goods nor he is a consignor or a consignee. Upon receipt of information from the driver, the representative met the 1st respondent on 02.09.2015 and subsequently on 03.09.2015 and explained him in detail. However till date the goods, which are more perishable have not yet been released till date. Hence, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the impugned proceedings of the 1st respondent is contrary to law. Further, when the goods are accompanied with delivery challan/Form JJ, detention of goods is not justifiable. Further, according to him when the goods are moved from its branch to the supplier factory at Ranipet, along with necessary documents and when the petitioner is an 100% export oriented Unit, there is no liability of tax.

5. That apart, the learned counsel for the petitioner would submit that according to the Check Post Authority, the transportation made by the petitioner was not accompanied with proper documents and he found only defective documents. Hence, on receipt of notice, the representative of the petitioner met the 1st respondent and produced all the required documents, even then the no orders came to be passed.

6. The learned Additional Government Pleader (Taxes) on the other hand would submit that the 1st respondent may be directed to pass appropriate orders within a time frame based on the documents produced by the petitioner.

7. Since the 1st respondent has not passed any orders even after production of required documents by the representative of the petitioner and in view of the above submission made by the learned Additional Government Pleader (Taxes), the 1st respondent is directed to pass necessary orders on the basis of the documents produced before him in support of the transportation, within a period of one week from today.

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

rg

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub-Assistant Registrar

To

1 The Commercial Tax Officer
Roving Squad Vellore.

2 The Assisant Commissioner (CT)
Vepery Assessment Circle Chennai.

+1 C.C. to MR.V.SUNDARESWARAN, Advocate in Sr.54966

W.P.No.32060 of 2015

RSK(CO)
sd : 08/10/2015