IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.32670 and 32671 of 2015

M/s Metal Scope (India) Pvt Ltd
rep by its Authorised Signatory,
No.17/2, 7th Cross Street,
Om Sakthi Industrial Estate,
Sedurapet,
Puducherry - 605 111 .... Petitioner in both the writ petitions

Vs

Deputy Commercial Tax Officer,
Pattanur Check Post,
Morattandi,
Villupuram District .... Respondents in both the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India seeking writs of certiorarified Mandamus to call for the impugned proceedings of the respondent in G.D Nos.2709/2015-16 and 2708/2015-16 dated 11.10.2015 and quash the goods detention proceedings as illegal and direct the respondent to release the goods.

For Petitioner (in both WPs : Mr.C. Baktha Siromoni

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

COMMON ORDER

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

2. These writ petitions have been filed, challenging the Goods Detention Notice Nos.2709/2015-16 and 2708/2015-16 dated 11.10.2015 issued by the respondent.

3. The petitioner is the manufacture of iron and steel corrugated sheets and structures having TIN and CST No.34740009077 issued by the Puducherry State Sales Tax Department. The petitioner has imported HR Steel plates from M/s Daewoo International Corporation, Incheon, South Korea - 406 840 and cleared the goods to their factory at Om Sakthi Industrial Estate. The goods are cleared by the clearing agent on 10.10.2015 and the movement of goods was accompanied by Form-KK, delivery note as required under Rule 15 of TNVAT. The value of the HR steel plates 15 pieces transported is Rs.13,55,557/- (in respect of W.P.No.32670 of 2015) and Rs.17,17,040/-(in respect of W.P.No.32671 of 2015) as per the above delivery note in Form-KK accompanied with the goods vehicle. Before entering into the State of Pondicherry the goods vehicles bearing Registration Nos.TN-28 E 1110(in W.P.NO.32670 of 2015) and TN-20 AK 3556 (in WP No.32671 of 2015) have entered into the respondent's check post for making necessary entry. The check post officials have detained the goods. The respondent officials detained the goods vehicle along with the imported HR steel plate for the value of Rs.13,55,557/- and Rs.17,17,040/ respectively as the driver of the goods vehicle was not in possession of transit pass at the time of entry into the border check post. The respondent has not released the goods vehicle even after proper explanation was given by the petitioner and also showing the records available at the time of checking of vehicle. 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 notices issued by the respondent are 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 these writ petitions.

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, the petitioner is directed to pay one time tax of

Rs.76,000/-(in respect of W.P.No.32670 of 2015) and Rs.96,300/- (in respect of W.P.No.32671 of 2015)- and on payment by the petitioner, the respondent shall release the goods forthwith. 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sr
To

1. The Deputy Commercial Tax Officer
Pattanur Check Post
Morattandi,
Villupuram District

+2 cc to Mr.C.Baktha Siromoni Advocate sr.56067

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