IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

Writ Petition No: 32932 of 2015

Globe Ecologistics Pvt. Ltd.
No: 33/17, Lakshmi Towers
Thambu Chetty Street
Chennai - 600 001. ... Petitioner

-vs-

The Deputy Commercial Tax Officer
Kandamangalam Check Post ... Respondent

Writ petition under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the respondent in his proceedings in Goods Detention Notice No. 2699 dated 02.10.2015 and consequential notice in G.D. No: 2699/2015-16 dated 2.10.2015 and quash the same and direct the respondent to release the goods.

For petitioner : M/s. Adithya Reddy

For respondent : Mr. S. Manoharan Sundaram
Additional Government Pleader

O R D E R

Heard the learned counsel appearing for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader, who takes notice for the respondent. With the consent of the learned counsel on either side, the writ petition itself is taken up for final disposal.

2. This writ petition is filed challenging the proceedings of the respondent in Goods Detention Notice No. 2699 dated 02.10.2015 and consequential notice in G.D. No: 2699/2015-16 dated 2.10.2015 and quash the same and direct the respondent to release the goods.

3. The petitioner firm is a reputed logistic service provider based in Chennai. M/s. JSW Steel Coated Products Ltd. a group company of the reputed JSW group booked the petitioner's services for transporting various quantity of iron and steel material from their factory at Nagpur to their customer in Puducherry M.s. Metco Proof Pvt. Ltd. The goods were sent along with Invoice Bearing No: 158102162 dated 29.09.2015 and consignment note No: 1522001/99 dated 29.09.2015 in Vehicle Bearing No: TS 01 UB 2925. When the vehicle was in transit, the respondent, on 02.10.2015 at 7.15 a.m. detained the goods on the basis that the goods were not accompanied with E-Transit Pass. According to the petitioner all the documents accompanying the goods indicated that the goods were menat for delivery at Pondicherry and the fact that the goods were not accompanied by transit pass does not lead to a presumption of evasion of tax on local sale when admittedly the goods are meant for delivery outside the State.

4. Challenging the said goods detention notice, petitioner has filed this writ petition for issuance of a writ of certiorarified mandamus to call for the impugned proceedings of the respondent in GD No. 2699/2015-16 dated 02.10.2015 and quash the same as issued without authority of law and further direct the respondent to release the detained consignment.

5. The learned counsel appearing for the petitioner submits that when the goods were accompanied by proper bill, the respondent have no authority to detain the consignment which was moved by way of sale in transit from one State to another and, therefore, the impugned proceedings of the respondent demanding tax and compounding fee cannot be sustained.

6. On the other hand, the learned Additional Government Pleader appearing for the respondent submits that when the goods come from any place outside the State and bound for any other place outside the State but passes through the State of Tamil Nadu, the owner or other person shall have to obtain a transit pass in the prescribed form after its entry into the State and since the petitioner did not produce such transit pass, the consignment was rightly detained by the authorities concerned.

7. The learned counsel for the petitioner submits that though the prayer is couched in such a manner that the goods can be directed to be released without insisting on one time tax and compounding fee, in order to give a quietus to the issue, the petitioner is willing to pay one time tax.

8. In view of the above, this writ petition stands disposed of with a direction to the respondents to release the goods forthwith on condition that the petitioner pays the one time tax of a sum of Rs. 2,07,905/- (Rupees two lakhs seven thousand nine hundred and five only). As regards the compounding fee demanded, it is always open to the petitioner to agitate the same in the manner known to law. Consequently, connected miscellaneous petition is closed. There shall be no orders as to the costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer
Kandamangalam Check Post

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.56423
+1cc to the Special Government Pleader(Taxes), S.R.No.56689

W.P. No: 32932 of 2015

CS(IV)
CA(16/10/2015)