IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WRIT PETITION No.33289 of 2015 and
M.P.No.1 of 2015

M/s.Bhartiya International Limited,
Rep. By its Authorised Signatory,
Mr.C.Deenadayalan,
No.118/12, Vepery High Road,
Periamet, Chennai - 600 003. .. Petitioner

Vs.

1. The Commercial Tax Officer,
   Roving Squad,
   Vellore.

2. The Assistant Commissioner (CT),
   Vepery Assessment Circle,
   Chennai.

.. Respondents

Writ petition filed under Article 226 of Constitution of India praying for the issuance of 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 proceeding date 12.10.2015 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 J.No.737 dated 30.09.2015 along with Delivery Challan No.008 dated 30.09.2015 without insisting upon nay payment of tax or compounding fee.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Manoharan Sundaresan,
Additional Government Pleader

ORDER

Seeking to quash the Goods Detention Notice No.587/2015-16 dated 12.10.2015 and to 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 J.J.No.737 dated

30.09.2015 along with Delivery Challan No.008 dated 30.09.2015 without insisting upon any payment of tax or compounding fee, the petitioner is before this Court with this writ petition.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The petitioner is a registered dealer having TIN No.33050522312 on the file of the second respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. During the course of business, M/s.ABCO Leathers Pvt. Ltd., Ranipet supplied "Sheep Wet Blue Skins" to the petitioner. In this regard, M/s.ABCO Leathers Pvt. Ltd., Ranipet raised invoice No.0032 dated 05.09.2015 for 1152 dz of "Sheep Wet Blue Skins" for the value of Rs.34,57,152/- and the sale tax was imposed at 5%. The petitioner found that 350 dz were defective and in order to get them replaced, returned the same vide delivery challan No.008 on 30.09.2015. Thereafter, while the goods in Transit, Goods Detention Notice No.587/2015-16 dated 02.10.2015 was issued by the first respondent. Seeking to quash the same, the petitioner had filed a writ petition in W.P.No.32060 of 2015 before this Court. This Court disposed of the said writ petition on 08.10.2015, with a direction to the first respondent to pass necessary orders on the basis of the documents produced before him in support of the transportation, within a period of eight weeks from the date of the said order.

4. Despite the said direction and after receipt of the required documents from the petitioner, a notice dated 12.10.2015 was issued by the first respondent to the petitioner. In respect of the same, the petitioner also submitted his reply to the first respondent on 14.10.2015. Even then, the goods had not been released to the petitioner.

5. Heard both sides.

6. As rightly contended by the learned counsel for the petitioner that the goods were accompanied by form JJ describing the nature of movement is for processing by the supplier and the delivery challan also contained the reason for the movement namely return of goods. The quantity of the goods and the approximate value of the goods and the nature of goods were clearly mentioned in the form JJ and the delivery challan. The address of the consignor and the address of the consignee was also clearly mentioned in the form JJ and the delivery challan and since, the goods are supported by form JJ.No.737 dated 30.09.2015 along with Delivery Challan No.008 dated 30.09.2015 and the goods were returned back to the seller only for the purpose of processing, the petitioner has not committed any violation as stated by the first respondent.

7. Under these circumstances, since the second respondent being the Assessing Authority also made as a party here, it is always open to the second respondent to take appropriate action against the petitioner, if any violation found out and pass necessary orders in accordance with law. When such being position, there is no justifiable reason for detaining the goods in the check post. Hence, this Court finds it appropriate to direct the first respondent to release the goods forth with.

8. In the result, the writ petition is disposed of with a direction to the first respondent to release the goods forth with to the petitioner. The second respondent is at liberty to proceed against the petitioner, if he finds that the petitioner has committed any violation of the rules and regulations, in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Jbm

Sd/-
Assistant Registered (IV)

/True Copy/

Sub-Assistant Registrar

To

1. The Commercial Tax Officer,
   Roving Squad,
   Vellore.

2. The Assistant Commissioner (CT),
   Vepery Assessment Circle,
   Chennai.

+1 C.C. to MR.V.Sundareswaran, Advocate in Sr.No.57645

W.P.No.33289 of 2015

LRs(CO)
sd : 30/10/2015