IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.33476 of 2015

and

M.P.No.1 of 2015

M/s.Venus Metal Agencies
Rep its Proprietor 107 Sydenhams Road
Periamet Chennai 3 .. Petitioner

Vs

1 The Check Post Officer
Deputy Commercial Tax Officer Puzhal Check
Post (Outgoing) Chennai 66

2 The Commercial Tax Officer
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 impugned proceedings of the 1st respondent in G.D. No.2342/2015-2016 dt 14.10.2015 and quash the same as issued contrary to the provisions of the TNVAT Act and also without jurisdiction and further direct the respondent to release the detained consignment of Aluminium Scrap Tread without insisting on payment of the compounding fee.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.S.Kanmani Annamalai,
Addl. Govt. Pleader (T)

ORDER

This writ petition has been filed, challenging the impugned proceedings of the 1st respondent in G.D. No.2342/2015-2016 dt 14.10.2015 as issued contrary to the provisions of the TNVAT Act and also without jurisdiction and to direct the respondent to release the detained consignment of Aluminium Scrap Tread without insisting on payment of the compounding fee.

2.The petitioner is a dealer in Aluminium Scrap and registered dealer under the Tamil Nadu Value Added Tax Act,2006. The petitioner supplied 6340 kgs of Aluminium Scarap Tread purchased from K.S.J.Metal Impex (P) ltd to M/s.AGS Aluminium Alloy Pvt Ltd., Gummidipoondi Taluk and raised a Tax inoive No.66 dated 12.10.2015 for a basic value of Rs.8,34,724/- including Excise duty. During transit, the goods were detained by the Special Squad at Padiyanallur Toll Plaza on 13.10.2015 and were handed over to the first respondent, who issued Goods Detention Notice No.2342/2015-16 dated 13.10.2015 to verify the genuineness of the transactions. Though the petitioner approached the first respondent through his representative, the first respondent issued a impugned compounding notice dated 14.10.2015, in and by which, the petitioner was called upon to remit compounding fee of Rs.1,25,208/- which is three times of the tax of Rs.41,736/- being tax payable at 5% on the basic value of the goods of Rs.8,34,724/-. Aggrieved over the same, the petitioner is before this Court.

3. According to the learned counsel for the petitioner, the transaction involved in this writ petition is between two registered dealers upon payment of necessary taxes. Hence, there is no question of getting seal in the passes from the Check-post authorities. Learned counsel also submitted that the petitioner is willing to pay the required taxes for the purpose of release of goods.

4. On the other hand, the learned Additional Government Pleader submitted that the petitioner transported goods with defective documents and hence, the goods are detained.

5. Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) takes notice for the respondent.

6. In order to give a quietus to the issue, for the purpose of release of goods, on payment of Rs.42,000/-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.

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

sd/-
ASSISTANT REGISTRAR(CS-II)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

kua

To

1 The Check Post Officer ,
Deputy Commercial Tax Officer, Puzhal Check Post (Outgoing), Chennai 66.

2 The Commercial Tax Officer,
Vepery Assessment Circle, Chennai

+1 CC to Mr.P.Rajkumar Advocate. SR.NO. 56883

W.P.No.33476 of 2015

CO-BVR
JD 15/10/2015