IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2015

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.33683 and 33684 of 2015

Tvl.A.M.R. Transport rep. by
its Proprietor K.Amulraj
Thoothukudi-2 ..Petitioner in both the W.Ps

Vs

The Deputy Commercial Tax Officer,
Pattanur Checkpost @ Morattandi,
Cuddalore District. ..Respondent in both the W.Ps

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent to release the consignment with lorry detained on 30.09.2015 pursuant to his notice in G.D.Nos.2695/2015-16 and 2694/2015-16 dated 01.10.2015.

For Petitioner : Mr.R.Senniappan in both the W.Ps

For Respondent : Mr.S.Manoharan Sundaram,
Addl. Govt. Pleader (T)
in both the W.Ps

COMMON ORDER

Seeking a direction to the respondent to release the goods detained vide Notices in G.D.Nos.2695/2015-16 and 2694/2015-16 dated 01.10.2015, the petitioner has come up with these writ petitions.

2.It is the case of the petitioner that they are entrusted transport and delivery of plastic granules to the buyers viz., Tvl.Sapthagiri Packaging Unit, Metupalayam, Pondicherry and Tvl.Swastik Polymers, Pondicherry, by Tvl.Haldia Petro Chemicals Limited, West Bengal and during transit, at the Gummidipoondi Checkpost, the authority had not issued transit pass and allowed the vehicle to move. The vehicle was again intercepted at Pattanur Checkpost and though the documents were correct, the authority detained the consignment with lorry bearing Regn. No.TN 69 AA 9027 on the ground that the transit pass was not produced. Subsequently, the detention notices dated 01.10.2015 were issued directing the petitioner to pay tax and compounding fee. Aggrieved by the same, the petitioner is before this Court.

3.Heard the learned counsel for the petitioner and the learned Additional Government Pleader (T) for the respondent.

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 is 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 the writ petitions.

5.The learned Additional Government Pleader (T) on the other hand would submit that since the goods were transported without valid transit pass, 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, on payment of one time tax viz., Rs.94,464/- and Rs.21,965/- respectively 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.

8.With the above directions, the writ petition is disposed of. No costs.

sd/-
ASSISTANT REGISTRAR(CO)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

mmi

To

The Deputy Commercial Tax Officer,
Pattanur Checkpost @ Morattandi,
Cuddalore District.

+1 CC to R.Senniappan Advocate. SR.NO.57466
+1 cc to The Special Govt.Pleader (Taxes), sr.57696 (26/10/2015)

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33684 of 2015

CO-
JD 16/10/2015