IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM:

THE HON'BLE MR.JUSTICE R. MAHADEVAN

W.P.No.35504 of 2015

M/s.Arrow Tecs
rep. by its Proprietor J.Madhava Reddy
No.8/17F CCB Apartment,
Flat No.7G, 2nd Floor
Parthasarathypuram, 1st Street, T.Nagar
Chennai-600 017. [PETITIONER]

Vs

The Commercial Tax Officer
Roving Squad, Thrivellore Enforcement South
Chennai-600 006. [Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in Goods Detention Notice No.42/2015-2016 dated 14.09.2015 and consequential notice in GD No.42/2015-16 dated 16.09.2015 and quash the same as illegal and direct the respondent to release the goods detained vide goods detention notice No.42/2015-2016, dated 14.09.2015.

For petitioner : Mr.P.R.Kumar

For respondent : Mr.S.Manoharasundaram,
Additional Public Prosecutor

O R D E R

Heard the learned counsel for the petitioner and Mr.S.Manoharasundaram, learned Additional Government Pleader, who took notice for the respondent and with their consent, the writ petition is taken up for disposal.

2. This writ petition has been filed challenging the Goods Detention Notice issued in G.D. No. 42/2015-2016, dated 14.09.2015 and to direct the respondent to release the goods.

3. The petitioner a partnership firm registered under the Tamil Nadu Value Added Tax Act, 2006 & CST Act is a dealer in Horizontal Drilling Machines. A firm by name Deva Enterprises, approached the petitioner for drilling the surface and laying cables, the petitioner after negotiation had entered into an agreement with the said Deva Enterprises and moved the Drilling machines owned by the petitioner to the work site for execution of HDD work. Whileso, on 14.09.2015 the respondent detained the consignment vide G.D.No.42 of 2015 by issuing the impugned goods detention notice stating that the vehicle No. TN-38-AC 9176 which contains Drilling Machine moved without valid documents. Hence, the same was detained. Aggrieved over the same, the petitioner is before this Court.

4. According to the learned counsel for the petitioner the vehicle was taken to work spot with valid documents and there are no valid reasons for detention. It is his further contention that the said detention is invalid as per the decision reported in Maruthi Timber Mart vs. Asst. Commissioner (CT), Enforcement reported in 1996 102 STC 88. Based on the above decision, the learned counsel for the petitioner has sought for allowing the writ petition.

5. The learned Additional Government Pleader on the other hand would submit that since the goods transported were not accompanied with valid documents, the respondent detained the same.

6. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to pay one time tax which may be quantified by the respondent and on such payment, the goods detained may be directed to be released.

7. In view of the submissions 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 respondent is directed to intimate the quantum of tax to be paid on receipt of a copy of this order to the petitioner and on such payment being made by the petitioner, the goods detained are directed to be released forthwith. With regard to compounding fee, if any, it is open to the petitioner to challenge the same in the manner known to law.

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

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub-Assistant Registrar

To

The Commercial Tax Officer
Roving Squad, Thrivellore Enforcement South
Chennai-600 006.

+1 C.C. To MR.P.R.Kumar, Advocate in SR.NO.60025

+1 C.C. To Special Government Pleader (Taxes), in SR.NO.60359

W.P.No.35504 of 2015

SV(CO)
sd : 05/11/2015