IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2015

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.36692 of 2015
and
M.P.No.1 of 2015

M/s.V.V.V. and Sons Edible Oils Ltd.,
rep. by its Manager,
443, Bazaar. Virudhunagar ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
(Enf.) (Roving Squad)
Tiruvannamalai. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent in his proceedings in G.D.No.254/2015-2016, and to quash the compounding notice, dated 13.11.2015, issued therein and further to direct the respondent to release the goods detained under the Goods Detention Notice No.000254, dated 12.11.2015, without insisting on payment of any tax or compounding fee.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

This Writ Petition is filed, for issuance of Writ of Certiorarified Mandamus, to call for records of the respondent in his proceedings in G.D.No.254/2015-2016, and to quash the compounding notice, dated 13.11.2015 issued therein, and further to direct the respondent to release the goods detained under the

Goods Detention Notice No.000254, dated 12.11.2015, without insisting on payment of any tax or compounding fee.

2. The case of the petitioner is that they are the registered dealer on the file of the Commissioner Tax Officer, Virudhunagar Assessment Circle, under the provisions of Tamil Nadu Value Added Tax Act as well as Central Sales Tax Act. Being the manufacturer of Gingely Oil, the petitioner effects the purchase of refined Sesame Oil from West Bengal, and in turn, sells the same locally. The petitioner purchased the said oil vide invoice No.430/15-16, dated 06.08.2015, and the same arrived on 13.08.2015, to the petitioner's premises. Since the inferior quality of the goods were dispatched, the same was brought to the notice of the seller, who in turn, requested the petitioner not to sell and return the same to them. Accordingly, the petitioner took steps to return the goods to M/s.Vinayak Oil and Fats Pvt. Ltd., on 09.11.2015. The said purchase return was accompanied by Form JJ as well as required transport documents. While the goods were in transit, the same were detained by the respondent on suspicion by the impugned order, stating that there is evasion of tax. The petitioner, upon receipt of the goods detention notice, approached the respondent immediately along with copies of required transport documents. But the respondent refused to accept the same, hence, the petitioner is constrained to approach this Court by way of the present Writ Petition, seeking for the aforesaid relief.

3. According to the learned counsel for the petitioner, the goods moved from Howrah to Virudunagar on 14.08.2015 and entered the petitioner's premises on 31.08.2015 itself. Since the inferior quality of the goods was noticed, the petitioner returned the same to the seller along with all transport documents. But, on suspicion, the same was detained by the respondent, which act is illegal, and hence, he prays for release of the goods.

4. The learned Additional Government Pleader for the respondent submitted that necessary document had not been produced by the petitioner, so that, the order was passed by the respondent, so as to safeguard the revenue.

5. I have considered the submissions made by the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader on behalf of the respondent.

6. Admittedly, the petitioner produced Form JJ along with transport documents, so as to prove the genuineness of the transaction. When such being the case, there cannot be a straight-jacket allegation of evasion of tax. At the same time, the interest of the revenue also to be safeguarded. Hence, this Court directs the petitioner to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) towards tax for release of the goods detained. As and when such payment is made by the petitioner, the respondent is directed to release both the goods as well as the Vehicle forthwith. It is open to the respondent to proceed in accordance with law with regard to the composition of offences.

7. In the result, the Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer,
(Enf.) (Roving Squad)
Tiruvannamalai.

1 CC to Mr.B.Raveendran, Advocate SR.No. 62177

1 CC to the Spl. Government Pleader, SR.No. 62208

Writ Petition No.36692 of 2015

LRS (CO)
PSI (18/11/2015)