IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.NO.37953 OF 2015
AND
M.P.NOS.1 AND 2 OF 2015

M/s.Sri Guru Trader,
rep. by its Manager, K.Jebastin Selvan.
No.2B/7-F-11, Floor,
Mamundi Vathiyar Lane,
East Masi Street, Madurai - 625 001
Madurai District ....Petitioner

Versus

1. The Assistant Commissioner (CT)
Munichalai Assessment Circle,
Madurai - 625 020, Madurai District.

2. The Deputy Commercial Tax Officer,
K.G.Chavadi (Incoming)
Roving Squad, Coimbatore,
Coimbatore District. ....Respondents

Prayer

Writ Petition, filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorari, to call for records on the file of the second respondent in his impugned proceedings, bearing GDR. No.373/2014-2015, dated 17.11.2015, and to quash the same as illegal.

For Petitioner: Mrs.R.Hemalatha

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

O R D E R

The petitioner has filed this Writ Petition, seeking to quash the proceedings, dated 17.11.2015, issued by the second respondent, whereby, the goods of the petitioner have been detained.

2. The case of the petitioner is that, they are the registered dealers on the file of the first respondent, and they are dealing with perfumed Pan Masala, without tobacco, and they transported the said goods from Bangalore accompanied by proper checkpost documents. Since no endorsement from the check post Authorities was obtained by the petitioner, the goods came to be detained by the second respondent by the impugned order. Aggrieved by the said order, the petitioner is before this Court by the present Writ Petition, seeking for release of the goods.

3. Heard Mrs.R.Hemalatha, learned counsel appearing for the petitioner as well as Mr.S.Kanmanni Annamalai, learned Additional Government Pleader (For Tax), who accepts notice on behalf of the respondents.

4. According to the learned counsel appearing for the petitioner, the transportation of the abovesaid goods took place with valid documents, and inadvertently, the driver of the goods Vehicle failed to obtain the endorsement from the Check post Authority, for which reason, the petitioner cannot be mulcted with the liability of payment of tax as well as penalty. However, the learned counsel for the petitioner submitted that the petitioner is ready and willing to pay one time tax for the purpose of release of the goods, and on such payment, the goods may be directed to be released.

5. Per contra, the learned Additional Government Pleader (For Tax) for respondents has submitted that the petitioner had transported the goods without proper documents, and hence, the respondent-Department has rightly detained the goods on the ground of preventing evasion of taxes.

6. I have considered the rival submissions, and in order to give quietus to the issue, for the purpose of release of the goods alone, the petitioner is directed to pay one time tax on the value of the goods. As and when such payment is being made

by the petitioner, the second respondent is directed to release the goods forthwith. Other aspect, viz., the composition of offence is concerned, it is open to the petitioner to seek appropriate remedy in the manner known to law.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar AR(CS-III)

True Copy

Sub Assistant Registrar

To

1. The Assistant Commissioner (CT)
Munichalai Assessment Circle,
Madurai - 625 020, Madurai District.

2. The Deputy Commercial Tax Officer,
K.G.Chavadi (Incoming) Roving Squad,
Coimbatore, Coimbatore District.

+1cc to Mrs.R.Hemalatha, Advocate Sr.64668

+ 1 cc to The Spl.Govt.Pleader (Taxes), Hct, Mds-104.
Sr 64878 (11/1/16)

W.P.No.37953 of 2015

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srg 27/11/2015