

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.38477 of 2015
and
M.P.No.1 of 2015

M/s.Unik Traders
represented by its Proprietor Petitioner

Vs

1. The Commercial Tax Officer,
Roving Squad-I, Enforcement,
Central Division, Chennai.
2. The State of Tamil Nadu,
represented by its Secretary,
Commercial Taxes & Registration Department,
Fort St. George, Chennai 600 009. Respondents

Writ petition has been filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified Mandamus to call for the records of the first respondent in G.D.No.111/Rs-I/C/15-16, quash the impugned proceedings dated 21.11.2015 and further direct the first respondent to release the goods so as to enable the petitioner to move the goods its business address in Bangalore.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.V.Haribabu,
Addl. Govt. Pleader

ORDER

The petitioner has filed this writ petition to quash the goods detention notice dated 21.11.2015 issued by the first respondent and consequently direct the first respondent to release the detained goods.

2.According to the petitioner, the petitioner is a registered dealer in the State of Karnataka and is dealing with spices and dry fruits. In the course of such business, the

petitioner imported goods from Afghanistan in two containers, which are not meant for sale within the State of Tamil Nadu and due to bad weather condition, the same were sought to be stored in a Cold storage Unit at Madhavaram - RedHills Area by name M/s.Arunachala Cold Storage to be transshipped to its business place in the State of Karnataka at Bangalore. When the vehicle was parked in the cold storage unit, the goods were detained by the first respondent. Thereafter, a Goods Detention Notice dated 21.11.2015 came to be issued by the first respondent, stating that the Bangalore based registered dealers, having no storage facility in the State of Tamil Nadu, should not unload and keep the goods in an unregistered place. Aggrieved against the same, the petitioner is before this Court.

3.The learned counsel for the petitioner submitted that the goods in question were imported with valid documents and the cold storage unit, where the detained goods were intended to be stored, is a registered unit by the owner vide TIN No.33381083809 with effect from 01.01.2007, as such, the impugned notice issued by the authority is arbitrary, illegal and without any basis. Therefore, the learned counsel for the petitioner seeks indulgence of this court for early release of the goods detained.

4.On the other hand, the learned Additional Government Pleader submitted that the cold storage unit, in which the goods were stored, is not a registered godown of the petitioner and hence, the goods were ordered to be detained.

5.I have considered the submissions made on both sides and also perused the documents filed along with this petition.

6.Admittedly, the cold storage unit viz., M/s.Arunachala Cold Storage is a registered one under the Tamil Nadu Value Added Tax Act, 2006 and the petitioner was intending to store the imported goods in the same only to avoid bad weather condition. Further, the petitioner is also a registered dealer in the State of Karnataka and stored the imported goods to be transshipped to its business place at Bangalore and not for sale within the State of Tamil Nadu.

7.Hence, in the interest of justice as well as considering the fact that the goods in question are perishable in nature, the same are directed to be released. Accordingly, the petitioner is directed to execute an indemnity bond to the value of the goods relating to two containers and upon execution of the same, the first respondent is directed to release the goods forthwith. If there is any violation on the part of the petitioner, it is open to the respondents to proceed against the petitioner in the manner known to law.

8.The writ petition is disposed of accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

rk

s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

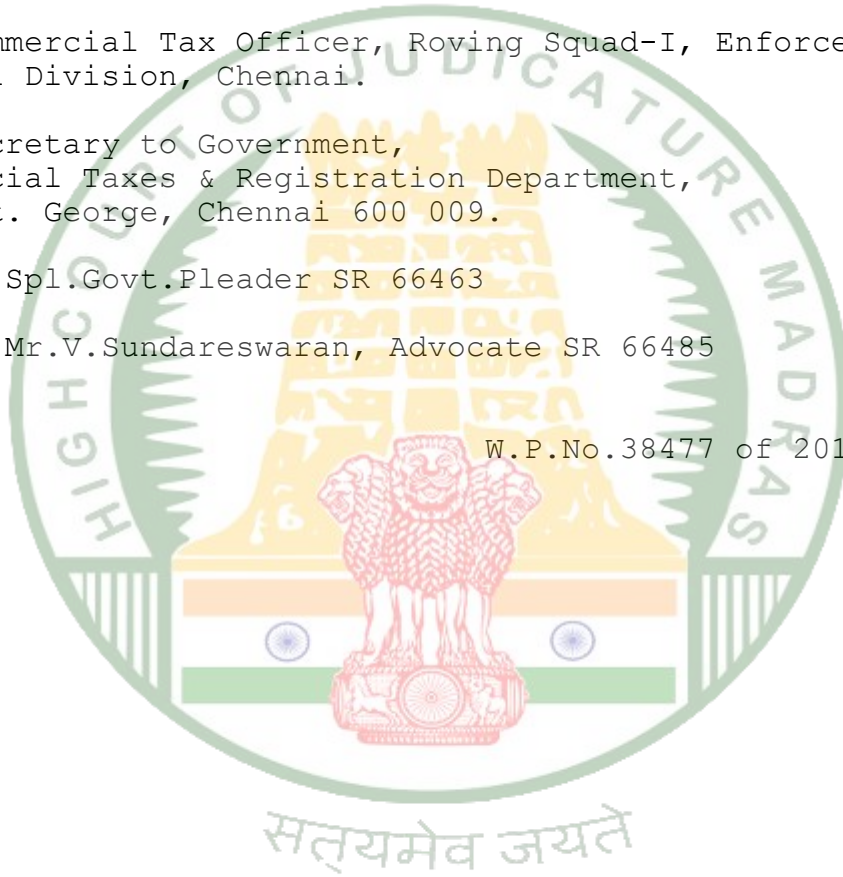
1. The Commercial Tax Officer, Roving Squad-I, Enforcement,
Central Division, Chennai.
2. The Secretary to Government,
Commercial Taxes & Registration Department,
Fort St. George, Chennai 600 009.

+ 1 cc to Spl.Govt.Pleader SR 66463

+ 1 cc to Mr.V.Sundareswaran, Advocate SR 66485

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