IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2015

Coram

The Hon'ble Mr.Justice R.Mahadevan

W.P.No.38854 of 2015
and
M.P.No.1 of 2015

Tide Water Oil Co. (I) Ltd.,
rep. by its Senior Manager (Accounts)
Mr.S.Sivarram
B-18, Sipcot Industrial Estate,
Matthur Village,
Kanchipuram District.

...Petitioner

Versus

1. The Assistant Commissioner (CT)
T.Nagar Assessment Circle,
Chennai.

2. The Commercial Tax Officer (Enl.),
Roving Squad,
Vellore.

....Respondents

Prayer

Writ Petition, filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorarified Mandamus, to call for records on the file of the second respondent in his impugned proceedings, bearing G.D. No.613/2015-2016, dated 05.12.2015, transported in Goods Vehicle Bearing Regn.No.TN-25-AC/7389, carrying lubricant oil and quash the same and direct the second respondent herein to release the consignment of goods.

For Petitioner : Mr. N.Inbarajan

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

O R D E R

The petitioner who is a registered dealer of lubricant oil and grease, despatched the said materials on 1.12.2015 to Hyderbad by enclosing Form JJ through All India Road Transport Agency with the necessary consignment note. It is the case of the petitioner that the stock transfer challan-cum-performa invoice dated 30.11.2015 was also accompanied during transportation. The goods while in transit have been detained in Ranipet check post only to verify the genuineness of the transactions. The petitioner explained that the consignment was moving from their factory at Chennai to their own depot at Hyderabad along with all the required documents and thereby insisted for earlier release of the goods. Without acceding to the request, a notice dated 05.12.2015 was issued directing the petitioner to pay tax as well as compounding fee. According to the learned counsel for the petitioner without conducting any enquiry with personal hearing, the said compounding notice came to be issued. Thatapart, the representation made by the petitioner was also not considered and hence, the detention order itself is illegal. But for the early release of the goods, the learned counsel for the petitioner submitted that the petitioner is inclined to pay the tax amounting to Rs.4,95.000/-.

2. Learned Additional Government Pleader while placing his arguments supporting the goods detention notice, submitted that the transportation was not supported by proper documents and hence, the respondent-Department has rightly detained the goods on the ground of evasion of payment of tax.

3. I have considered the rival submissions, and in the interest of justice, the petitioner is directed to pay a sum of Rs.4,95,000/- (Four Lakh Ninety Five Thousand Only) towards tax for the release of goods. As and when such payment is being made by the petitioner, the respondent is directed to release the goods forthwith. As far as the other aspect, viz., imposition of compounding fee is concerned, it is open to the petitioner to seek appropriate remedy in the manner known to law.

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

Sd/-
Assistant Registrar(CO)

True Copy

Sub Assistant Registrar

To

1. The Assistant Commissioner (CT)
T.Nagar Assessment Circle,
Chennai.

2. The Commercial Tax Officer (Enl.),
Roving Squad,
Vellore.

+1cc to N.Inbarajan, Advocate Sr.66017

W.P.No.38854 of 2015

vs[co]
srg 10/12/2015