IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.12.2015

Coram

The Hon'ble Mr.Justice R.Mahadevan

W.P.No.38885 of 2015

M/s.Space Wood Office Solutions Pvt. Ltd.
No.T-39 MIDC Hingna Road
Nagpur 440 016 [ Petitioner ]

Vs

Deputy Commercial Tax Officer
Katpadi Checkpost Katpadi
Vellore District
[ Respondents]

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings in G.D.No.1671 dated 5.12.2015 and quash this detention order as illegal and direct the respondent to release the goods detained.

For Petitioner : Mr. C.Baktha Sironmoni

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

O R D E R

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

2. This writ petition is filed challenging the proceedings in G.D.No.1671 dated 05.12.2015 and to direct the respondent to release the goods detained.



3. The petitioner has transported chairs from the Head Officed at Hinga Road, Nagpur to the buyer at Chennai viz., M/s S.M.A.Zulaiha with proper invoice. Since the said purchaser is not a registered dealer under the CST Act, the petitioner has collected tax at 12.5% on the cost of goods i.e., Rs.13,00,854/-. According to the petitioner, he has not committed any mistake for the transport of goods from Nagpur to Chennai. However, the respondent has detained the goods vehicle bearing Registration No.MH46F 4743 along with goods, while the goods are in interstate movement by issuing Goods Detention Notice dated 05.12.2015 at Katpadi Check Post stating that

only to verify the genuineness of the transactions the goods are detained. It is the case of the petitioner that though the goods were moving from Nagpur to Chennai to the purchaser's own use along with all the required documents, even after verification of connected records, the respondent has not released the goods vehicle. Without releasing the goods, subsequent notice dated 08.12.2015 was issued directing the petitioner to pay tax as well as compounding fee.

4. According to the learned counsel for the petitioner when the goods are purchased by the actual user in Tamil Nadu and since the purchaser is an unregistered dealer in Tamil Nadu, the seller in other State has charged tax at 12.5% as per Section 8(2) of the CST Act. That apart, according to him, the goods were transported for the purchaser's own use and not for sale, there is no evasion of tax. Besides, according to him, the respondent has detained the goods only on mere suspicion and when the connected documents were verified, viz., Sale Bill, the respondent ought not to have detained the vehicle along with goods and hence, the detention order as well as the order directing the petitioner to pay tax and compounding fee are illegal.

5. Learned Additional Government Pleader while placing his arguments supporting the goods detention notice, submitted that since the documents accompanied were found to be defective, the respondent-Department has rightly detained the goods on the ground of evasion of payment of tax.

6. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to pay the actual tax to be paid for the purpose of release of goods and on such payment, the goods detained may be directed to be released.

7. In view of the submission made by the learned counsel for the petitioner that the petitioner is willing to pay the tax and in order to give a quietus to the issue, for the purpose of release of goods, without prejudice to their right to agitate the issue with respect to tax as well as compounding fee before the assessing authority or the revisional authority in the manner known to law, on payment of tax viz., Rs.2,25,000/- (Rupees two lakhs twenty five thousand only) by the petitioner, the respondent, shall release the goods in question forthwith.

With the above direction, the Writ Petition is disposed of. No costs.
rg

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

The Deputy Commercial Tax Officer
Katpadi Checkpost, Katpadi
Vellore District

+1 C.C. to MR.C.Baktha Sironmoni, Advocate in Sr.No.66357

+1 C.C. to Special Government Pleader (Taxes) in Sr.No.66460

W.P.No.38885 of 2015

SKV(CO)
sd : 10/12/2015