IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2015

Coram

The Hon'ble Mr.JUSTICE R.MAHADEVAN

W.P.Nos.39291 and 39292 of 2015

Shapoorji Pallonji & Co.Ltd. [Petitioner in both WPS]
Rep. by Dy. General manager (A/c)
D.Sankaralingam SP Infocity
Module 4-A 2nd Floor
A Block No.40 MGR Salai
Kandanchavadi Perungudi Ch.-96

Vs

The Deputy Commercial Tax Officer
Check Post Officer Puzhal (IN)
AT Pethikuppam Checkpost Gummidipoondi.
[Respondent in both WPS]

Writ Petitions filed under Article 226 of the Constitution of India seeking for issuance of Writ of Certiorari to call for the records on the files of the first respondent herein in his proceedings GD Nos.3375 & 3376/2015-16 respectively dated 05.12.2015 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.R.Kumar
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

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 petitions are taken up for disposal.

2. These writ petitions are filed challenging the proceedings in GD Nos.3375 & 3376/2015-16 respectively dated 05.12.2015.

3. The petitioner Company, being a registered dealer under TNVAT Act, having TIN No.33510762037 and under CST Act with registration No.875642 dated 23.07.2004 is an assessee on the files of the Commercial Tax Officer (CT), Thiruvanmiyur Assessment Circle, Perungudi, Chennai. It is the case of the

petitioner that being engaged in the business of works contract and executing work with various companies, it purchased construction materials from M/s Tata Steel Limited against C forms for executing a contract at the work site of Hexaware Technologies Limited, SIPCOT, SEZ and directed the Tata Steel Limited to deliver the goods at the work site. Accordingly, the seller transported the goods in Vehicle Nos. NL 01 K 8361 and HR 38 Q 3201 respectively charging CST at 2%. During transit, the respondent intercepted the movement and issued Goods Detention Notice in G.D.Nos.3375 and 3376 of 2015-16 dated 05.12.2015 on the ground of verification of the genuineness of the transactions. On receipt of such notices from the drivers of the lorries, the petitioner, by letter dated 07.12.2015 addressed to the Assessing Officer, by enclosing Cheque No.749858 dated 07.12.2015 for Rs.60,435/- being the tax due as per the provisions of the Act. Further, the petitioner, vide letter dated 09.12.2015, addressed the respondent explaining the clerical error made by the consignor also enclosing the letter dated 07.12.2015 addressed to the assessing officer for payment of advance tax for the detained goods with acknowledgement obtained thereof. Having acknowledged the same, the respondent refused to release the goods and insisted to pay two time compounding fee for release of goods. Hence, the petitioner is before this Court.

4. According to the learned counsel for the petitioner, issuance of the impugned orders of detention dated 05.12.2015 are without jurisdiction since the respondent very well know that the purchases were interstate movement against C forms. Further, according to the learned counsel, the goods were transported with tax invoice and there is no possibility of evasion of tax and hence, in the facts and circumstances, the detention orders passed by the respondent are beyond the scope of the provisions of the Act. He would further submit that though advance tax has already been paid, the goods are yet to be released and hence suitable direction may be given to the respondent for release of goods.

5. Learned Additional Government Pleader on the other hand has placed his arguments supporting the goods detention notices.

6. 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.60,435/- (Rupees sixty thousand four hundred and thirty five only) by the petitioner and on production of necessary receipt before the respondent for such payment, the goods in question are directed to be released by the respondent forthwith.

With the above direction, the Writ Petitions are disposed of. No costs.

Sd/
ASSISTANT REGISTRAR(CS-III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

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To

The Deputy Commercial Tax Officer
Check Post Officer Puzhal (IN)
AT Pethikuppam Checkpost Gummidipoondi.

+2 CC to MR.R.Kumar Advocate. SR.NO. 67129 , 67130

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CO-SAI
JD 15/12/2015