IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.39577 of 2015
and M.P.No.1 of 2015

Indofrench Polymers
rep. by its Partner Babuji Kuruvilla
A123 Industrial Estate
Mettupalayam Pondicherry 605 009 [Petitioner]

Vs

Deputy Commercial Tax Officer
Kandamangalam Check Post
Lingareddipalayam 605 102
Villuuram District

[Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the impugned proceedings of the respondent passed in Goods Detention Notice No.3617 dated 9.12.2015 and quash the same and further direct the respondent to release the consignment at once.

For petitioner : Mr.J.Joseph
For respondent : Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

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

2. This writ petition has been filed challenging the Goods Detention Notice dated 09.12.15 and to direct the respondent to release the consignment at once.

3. The petitioner, a partnership firm, having its registered office at Pondicherry, is a registered dealer under the Pondicherry Value Added Tax act, 2005 and Central Sales Tax Act, 1956. It is the case of the petitioner that the

consignment in question was detained by the respondent in G.D.No.3617 dated 09.12.2015 at Kandamangalaam Check Post, Lingareddypalayam, in the State of Tamil Nadu on the ground that the goods transported, falling under VI Schedule to TNVAT Act, 2006, has to accompany by E Transit pass. According to the learned counsel for the petitioner, on coming to know about the detention of consignment from the transport staff, the petitioner came to understand that the staff did not carry the transit pass with them, even though the same was handed over to them. Further, according to the learned counsel for the petitioner, the respondent ought to have verified whether the petitioner has generated the transit pass or not through the website before detention of goods. He would further submit that the respondent has no jurisdiction to demand tax in respect of inter state sales from Kerala to Puducherry. That apart, according to him, the respondent orally directed the petitioner to pay one time tax and compounding fee for release of goods. Aggrieved over the same, the petitioner is before this Court.

4. The learned Additional Government Pleader (Taxes) on the other hand would submit since the petitioner has failed to comply with the provisions of the TNVAT Act, 2006 for transport of VI Schedule goods and hence the respondent has rightly detained the goods.

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

7. In view of the submissions made by the learned counsel for the petitioner that the petitioner is willing to pay tax and in order to give a quietus to the issue, for the purpose of release of goods, without prejudice to his 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.32,000/-by the petitioner, the respondent, shall release the consignment in question forthwith.

With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

Deputy Commercial Tax Officer
Kandamangalam Check Post
Lingareddipalayam 605 102
Villuuram District

+1 cc to the Special Government Pleader sr.67583
+1 cc to Mr.I.Joseph Advocate sr.67292

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