IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2015

Coram :

The Hon'ble Mr.Justice K.KALYANASUNDARAM

W.P.No.40689 of 2015
and
M.P.No.1 of 2015

Tvl.South India Krishna Oil & Fats Pvt. Ltd.,
Represented by its Authorised Signatory,
Sri C.Jayaganapathi,
Nos.730 & 731, Inner Ring Road,
Madhavaram,
Chennai - 600 060. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Kandamangalam Checkpost,
Villupuram District. ... Respondent

Writ Petition is filed under Article 226 of the Constitution of India for issue of writ of Certiorarified calling for the records on the files of the respondent in GDN.3618/2015-16 dated 16.12.2015 and quash the same as being without jurisdiction and authority of law.

For Petitioner : Mr.R.Senniappan

For Respondent : Ms.Kanmani Annamalai,
Addl. Govt. Pleader (Tax).

O R D E R

By consent, this writ petition is taken up for disposal at the admission stage itself.

2. This writ petition has been filed to quash the order of the respondent in GDN.3618/2015-16 dated 16.12.2015 and for direction to release the vehicle with consignment.

3. The petitioner is a registered dealer under TNVAT Act, 2006 as well as Central Sales Tax Act, 1956 dealing in RBD Palmolien Oil and has main office in Trichy and branches in other states including Puducherry and Andhra Pradesh.

4. The claim of the petitioner is that their Nellore Branch office had forwarded 19.890 metric tons of RBD Palmolien Oil for a value of Rs.8,83,116 to their Branch office at Puducherry alongwith requisite documents such as branch transfer invoice and ''E'' transit pass. On 12.12.2015, when the consignment was in transit through Gummidipoondi checkpost, the documents have been duly verified by the check post authorities and thereafter the consignment was permitted to move further. While so, on 13.12.2015, at Kandamangalam check post, the respondent has verified the documents and found some defects in the 'E' transit pass and detained the goods insisting the petitioner to pay one time tax and three times tax as compounding fees.

5. The petitioner would state that all the requisite transit documents have been perused by the Gummidipoondi check post authorities and a seal was also affixed and in case of any doubt over the transaction, the respondent should have contacted the concerned authorities for verification, instead passed the impugned order.

6. Mr.R.Seniappan, learned counsel for the petitioner submitted that when the goods has been accompanied by the requisite documents such as sales invoice and lorry receipt, the respondent ought to have released the consignment. It is further submitted that the impugned order has been passed by the respondent without affording opportunity and therefore the order is illegal and against the principles of natural justice.

7. The learned Additional Government Pleader (T) on the other hand would submit that since the goods were transported without valid transit pass, the goods were detained.

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

9. In view of the submission made by the learned counsel for the petitioner that the petitioner is willing to pay one time tax and in order to give a quietus to the issue, on payment of one time tax by the petitioner, the respondent, shall release the goods. With regard to the compounding fee, it is always open to the petitioner to challenge the same in the manner known to law.

With the above directions, the writ petition is disposed of No costs. Consequently, connected Miscellaneous Petition is closed.

rgr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

TO

The Deputy Commercial Tax Officer,
Kandamangalam Checkpost,
Villupuram District.

+ 1 CC TO Mr.R.Senniappan, Advocvate Sr 69593.

+ 1 cc to The Spl.Govt.Pleader (Taxes),HCT, MDS-104. Sr 69634.

SCD/CO
KR/23/12

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