



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.09.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD).No.16295 of 2015

and

M.P(MD)No.1 of 2015

M/s.Meenakshi Fabrics,
Represented by its Partner P.Ramesh Kumar
Shed No.88, SIDCO Industrial Estate,
Kappalur, Madurai.

... Petitioner

Vs.

The Commercial Tax Officer(Enforcement),
Roving Squad,
Villupuram.

... Respondent

This Writ Petition has been filed under Article 226 of Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records in G.D.Notices 1072/2015-16, dated 03.09.2015 issued by the respondent and to quash the same as illegal, arbitrary and in violation of the provisions of the TNVAT Act and direct the respondent to release the consignments detained on 03.09.2015.

For petitioner : Mr.S.Karunakar

For Respondent : Mr.R.Karthikeyan,

Additional Government Pleader

ORDER

The Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for the records in G.D. Notices No. 1072/2015-16, dated 03.09.2015 issued by the respondent and to quash the same as illegal, arbitrary and in violation of the provisions of the TNVAT Act and direct the respondent to release the consignments detained on 03.09.2015.

2. Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondent.

3. By consent, this Writ Petition itself is taken up final disposal.

4.The case of the petitioner is that the petitioner Concern is the manufacturer of non woven fabrics and they are an assessee on the file of the Assistant Commissioner(CT), Thiruparankundram Circle, Madurain in TIN NO.33566234216 and CST No.744155. The petitioner Concern had received orders from their customers for supply of non-woven fabrics and based on the same, they had effected sales to them as follows:

S. No	Name of the purchaser	Invoice No. & Date	Value	To whom it was sent as per the purchasers direction
1	Tvl. Tayub Mohamed Hajee Moosa, Madurai	572 dt. 02.9.2015	1,37,580 /-	Find Quilts, Chennai.

2	Tvl. Kiruba Enterprises-Palakkad	573 dt. 02.09.2015	1,56,218 /-	Chelson Offset, Chennai.
3.	Tvl. Arihant Bags, Sowcarpet, Chennai	574 dt. 02.09.2015	1,13,981 /-	Chelson Offset, Chennai.

The petitioner Concern is the registered dealer and they are entitled to supply materials from local and other state dealers, who are also registered dealers at their respective States. Accordingly, on the basis of the purchase orders, they had dispatched the materials with proper invoice and other valid documents like Form JJ, delivery challan as prescribed under the Act. As per the purchaser's instructions, the materials supplied had been dispatched to their printers at Chennai for further processing. While the matter stood thus, the respondent vide goods detention notice No.1072, dated 03.09.2015 had detained the consignment. Since the goods detained in the vehicle comprised of three consignments, the respondent had issued three notices dated 03.09.2015. Hence, the petitioner has come forward with the Writ Petition for the above stated relief.

5. It is the contention of the learned counsel for the petitioner that the detention order is passed without jurisdiction. The respondent is not an assessing authority and he is conferred with the power of levying compounding fee alone. Therefore, the impugned proceedings is passed without jurisdiction, power, total non-application of mind and in violation of principles of natural justice and hence, the impugned detention order is liable to be quashed.

6. Irrespective of the contentions raised in the affidavit, the learned counsel for the petitioner submits that the petitioner is prepared to pay the tax amount of Rs.24,452/-.

7. In view of the same, the Writ Petition is allowed. No Costs. The impugned order dated 03.09.2015 is hereby set aside. However, the petitioner is directed to pay the tax amount of Rs.24,452/- within a period of one week from the date of receipt of a copy of this order. On such payment, the respondent is directed to release the consignments detained on 03.09.2015. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

The Commercial Tax Officer(Enforcement),
Roving Squad,
Villupuram.

+1CC to Mr.S. Karunakar, Advocate,SR.No.52596

W.P (MD) .No.16295 of 2015
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