BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :14.09.2015
CORAM
THE HONOURABLE MR.JUSTICE R.SUBBIAH
W.P(MD).No.16651 of 2015
and
M.P(MD)No.1 of 2015

Tvl.Annamalai Trading Company,
Represented by its Proprietor,
M.Stalin ...Petitioner

Vs.

1.The Joint Commissioner of Commercial Taxes,
Enforcement
Commercial Taxes Building,
Reserve Line Road,
Palayamkottai,
Thirunelveli - 627 002.

2.The Commercial Tax Officer,
Roving Squad,
Commercial Taxes Buildings,
No.282-A, North Beach Road,
Tuticorin - 628 001.

3.The Assistant Commissioner(CT),
Thirupparankundram Assessment Circle,
Commercial Taxes Complex,
Dr.Thangaraj Salai,
Madurai - 625 020. ...Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for records pertaining to the impugned proceeding of the second respondent on Goods Detention Notice No.56/2015-16, dated 12.08.2015 and quash the same and consequently direct the second respondent to immediately release the detained goods.

For petitioner : Mr.R.Narayanan for M/s.R.V.Manikandan Associates
For Respondents : Mr.R.Karthikeyan Additional Government Pleader

ORDER

This Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for records pertaining to the impugned proceeding of the second respondent in Goods Detention Notice No.56/2015-16, dated 12.08.2015 and quash the same and consequently direct the second respondent to immediately release the detained goods.

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

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

4. The case of the petitioner is that the petitioner is the Proprietor of "Annamalai Trading Company" dealing in Ceramic Tiles. The petitioner concern is a registered Concern on the file of the third respondent in TIN.33486233387 and CST No.743558 and they are regularly filing the monthly returns both under TNVAT Act and CST and paying the legitimate taxes due to the Department without any due. \While the matter stood thus, the petitioner Concern purchased Ceramic Tiles for value of Rs.1,47,853/- from Tvt. Century Tiles Ltd., at Ahmedabad of Gujarat(TINL24050702251 & CST No.24050702251) and for a value of Rs.3,59,732/- from Tvl. Ariston Tiles Ltd of Gujarat (TIN: 24050704368) totaling a sum of Rs.5,07,585/-. The said sellers at Gujarat had effected sales to the petitioner Concern vide invoices bearing Nos.933 and 502 respectively, dated 02.08.2015 and sent the goods to the petitioner Concern through Global Shipping Agencies in the Vessel vis. "VSL.MV.INDRA GANDH V.S.M. 289" and the said consignment is duly covered by the above said valid invoice of the said sellers. The said consignment has to be unloaded at Tuticorin and the same has to be cleared by the petitioner Concern from the office of the owner of the Vessel, M/s.Chakiat Agencies Pvt. Ltd., at Tuticorin Harbour Estate. The sellers at Gujarat had properly collected CST at the rate of 2% from the petitioner Concern vide invoice Nos.933 and 502 respectively, dated 02.08.2015. When the said consignment containing Ceramic Tiles worth about Rs.5,07,585/- has been unloaded at Tuticorin Port, the second respondent has illegally detained the goods by stating the reason that "Documents detained for further verification and collection for Tax" and issued the impugned proceedings in Good Detention Notice No.56/2015-16, dated 12.08.2015 to the owner of the Vessel, M/s.Chakiat Agencies Pvt. Ltd., at Tuticorin Harbour Estate. Aggrieved over the same, the present Writ Petition has been filed for the above stated relief.

5. The main contention of the learned counsel appearing for the petitioner is that the second respondent is not an Assessing Authority and he has no authority of law to collect taxes from the dealer and hence, the impugned detention notice is liable to be set aside. He further submitted that in similar circumstances, this Court has set aside the detention notice issued by the Commercial Tax Officer in W.P(MD) No.15902 of 2015 vide order dated 02.09.2015 and he has also also enclosed a copy of that order in the typed set of papers.

6. Following the order passed by this Court in W.P(MD)No.15902 of 2015, dated 02.09.2015, and also considering the submission of the learned counsel for the petitioner, the Writ Petition is allowed. The impugned detention notice of the second respondent, dated 12.08.2015, is hereby set aside. However, the Assessing Authority is at liberty to proceed against the petitioner, if he so desires. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To
1.The Joint Commissioner of Commercial Taxes,
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Thirunelveli - 627 002.

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Roving Squad,
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3.The Assistant Commissioner(CT),
Thirupparankundram Assessment Circle,
Commercial Taxes Complex,
Dr.Thangaraj Salai, Madurai - 625 020.

+1CC to Mr.R.Narayanan, Advocate, SR.No. 54070
+1CC to The Special Government Pleader SR.No. 54348

W.P(MD).No.16651 of 2015
14.09.2015

AM/15.09.2015/SK.SKN/SAR-I/3P/6C