BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.(MD)No.606 of 2015
and
M.P.Nos.1 to 3 of 2015

M/s.N.K.Agencies,
Represented by its Proprietor K.Mohanlal,
1/A, Gandarvakottai Main Road,
Sengilpatti, Thanjavur 613 402. : Petitioner

Vs.

The Assistant Commissioner [CT],
[Enforcement],
Tuticorin. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus to call for the records in G.D.Notice 9/2014-15, dated 01.12.2014 and G.D.Notice No.11/2014-15, dated 05.12.2014 and consequential notice in A1/1292/2014, dated 29.12.2014 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 01.12.2014 and 05.12.2014.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R
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Mr.A.Muthukaruppan, learned Additional Government Pleader, takes notice for the respondent. By consent, the Writ Petition is taken up for disposal at the stage of admission itself.

2. Challenge in this Writ Petition is to G.D.Notice 9/2014-15, dated 01.12.2014, G.D.Notice No.11/2014-15, dated 05.12.2014 and consequential notice in A1/1292/2014, dated 29.12.2014 issued by the respondent and for a direction to the respondent to release the consignments detained on 01.12.2014 and 05.12.2014.

3. The petitioner is a dealer in Granite, Marble and Tiles and an assessee on the file of the Assistant Commissioner [CT] **(*)Thanjavur-II**, Assessment Circle, **(*)Thanjavur**. The petitioner purchased certain materials, like Marbles, Granites etc., and when the consignments were moved from Gujarat to Tamil Nadu, the same were detained by the respondent, vide impugned orders dated 01.12.2014 and 05.12.2014.

4. The learned counsel appearing for the petitioner would submit that the goods were transported with proper delivery notes and other required documents and therefore, the respondent ought not to have detained the goods. The learned counsel, in support of his contention, relies upon an order of this Court dated 25.06.2014, made in W.P.No.16402 of 2014.

5. Heard the learned Additional Government Pleader appearing for the respondents also.

6. In similar circumstances, this Court in W.P.No.16402 of 2014, dated 25.06.2014, directed the respondent therein to release the goods on payment of tax by the petitioner.

7. In such view of the matter, without going into the correctness or otherwise of the order impugned, the respondent is directed to release the goods detained to the petitioner, forthwith, on condition that the petitioner pays the entire tax amount for the goods detained by the authority concerned, which will be assessed by the respondent as contemplated under the Act. It is made clear that the petitioner has to subject himself to the adjudication proceedings, which may be initiated by the respondent.

8. The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/- (29.01.2015)
Assistant Registrar(Writs)
Sd/-
Assistant Registrar (CO)

***(Amended as per order of this Court dated and made in MP(MD)No.4/2015 in WP(MD)No.606/2015)**

/True copy/

Sub Assistant Registrar

To

(To be substituted to the order already despatched on 29.01.2015)

The Assistant Commissioner [CT],
[Enforcement], Tuticorin.

+1CC TO M/S.S.KARNAKAR, ADVOCATE IN SR.2386
+1CC TO THE SPECIAL GOVERNMENT PLEADER IN SR.11243

W.P.(MD)No.606 of 2015
20.01.2015

nb
PBK 29/01/2015 ::2P-4C: (IT)
SR : 27.03.2015 : 2p/4c