IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.10645 of 2016

Tvl Sri Guru Trader
rep by its Proprietor: S.Mariappan,
2B/7F, Mamundi Vathiyar Lane,
East Masi Street,
Madurai. ... Petitioner

Vs.

The Commercial Tax Officer (Enforcement),
Roving Squad - I, Salem. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the respondent herein in his Goods Detention Notice No.152/2015-16 dated 07.03.2016 and the consequential correct notice dated 09.03.2016, quash the same as illegal, invalid and without authority of law and to direct the respondent to forthwith release the goods detained by the respondent vide his Goods Detention Notice No.152/2015-16 dated 07.03.2016.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.Cibi Vishnu,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue writ of certiorarified mandamus to call for the records on the file of the respondent in his Goods Detention Notice dated 07.03.2016 and the consequential corrected notice dated 09.03.2016 and to quash the same and to direct the respondent to forthwith release the goods detained by the respondent vide his Goods Detention Notice dated 07.03.2016.

2.It is the case of the petitioner that the petitioner in the course of their business had placed orders with one Tvl.S.M.Perfumers, Bangalore for 80 bundles of Shanthi Pan Masala (without Tobacco and Nicotine) as early as in the 1st week of February. However, due to heavy demand, it was sold in piece meal of 16 bundles each and kept it in the Lorry Shed to be transported in bulk after the petitioner's entire order is fulfilled. The said Tvl.S.M.Perfumers, Bangalore raised 5 invoices on different dates for a total sum of Rs.14,07,755/-. On 07.03.2016, the respondent detained the goods along with the lorry to verify the genuineness of the transactions. According to the petitioner, the transaction between the petitioner and Tvl.S.M.Perfumers, Bangalore under transit is a genuine transaction in the course of inter-state falling under CST Act and is completely outside the purview of the TNVAT Act.

3.The learned counsel for the petitioner submitted that the petitioner is willing to pay One Time Tax to be quantified by the respondent and on payment of the One Time Tax, the respondent may be directed to release the goods and the vehicle to the petitioner.

4.Mr.Cibi Vishnu, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that on payment of One Time Tax, the respondent may be directed to release the goods and vehicle.

5.Since the petitioner is willing to pay the One Time Tax to be quantified by the respondent, I am of the view that the impugned order dated 07.03.2016 and the consequential corrected notice dated 09.03.2016 are liable to be set aside. Accordingly, the same are set aside. The respondent is directed to quantify the One Time Tax payable by the petitioner within two days from the date of receipt of a copy of this order and on payment of the One Time Tax to be quantified by the respondent, the respondent is directed to release the goods and the vehicle forthwith.

6.With these observations, the Writ Petition is disposed of. No costs.
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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To
The Commercial Tax Officer (Enforcement),
Roving Squad - I, Salem.

+ 1 cc to Mr.A.Chandrasekar, Advocate, SR 17995
+ 1 cc to Spl.Govt.Pleader(Taxes), High Court, Madras SR 18235
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