

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.11113 of 2016

Tvl.Sri Laxmi Exports,
Rep by its Partner P.K.Selvaraj,
Plot No.3, 3rd Floor,
First East Street,
K.K.Nagar, Madurai 625 020. ... Petitioner

Vs.

1. The Commercial Tax Officer [Enf],
Roving Squad, Vellore.
2. The Asst. Commissioner,
Tallakulam Assessment Circle,
Madurai. ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the 1st respondent to release the old own used "KOBELCO Hydraulic Excavator Model SK480 LC-8" detained on 15.03.2016 pursuant to his notice in Goods Detention Notice 665/15-16 dated 15.03.2016 immediately.

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.Manoharan Sundaram, AGP[T]

सत्यमेव जयते
O R D E R

The petitioner has filed the above Writ Petition to issue Writ of Mandamus directing the 1st respondent to release the old own used KOBELCO Hydraulic Excavator Model SK480 LC-8 detained on 15.03.2016, pursuant to the notice of the 1st respondent in Goods Detention Notice 665/15-16 dated 15.03.2016.

2. According to the petitioner, the petitioner is the registered dealer under the TNVAT Act, 2006 and assessee on the file of the 2nd respondent. The petitioner was having one Hydraulic Excavator for their own use and the said machinery has some major repairs and not capable of being used for the past more than two years. At this juncture, the petitioner was

approached by one M/s.Sri Shanthi Exports having registration under Andhra Pradesh Sales Tax Act. The said exporter requested the petitioner to send the KOBELCO Hydraulic Excavator machinery for the job work. The petitioner had informed them about the repairable condition of the Excavator. The petitioner had transported the said Excavator from Sholingur, Vellore District to Chittoor, Andhra Pradesh on 15.03.2016, with all requisite documents including 'Form JJ'. The 1st respondent had intercepted the vehicle bearing registration No.AP03 TA6699 for verification and detained the Excavator, on the ground that there was a clerical error in 'Form JJ' while mentioning the TIN number of the contract.

3. The petitioner further contended that, even after production of the original certificates with the proof of evidence, the same were not considered by the 1st respondent. The petitioner also brought it to the notice of the respondents, the Circular No.33/2014 dated 17.07.2014 issued by the Special Commissioner of Commercial Taxes, who advised and directed all the officers of the Check Post and Roving Squad in the State, not to indulge in the practice of exceeding their limit and usurp the power of the Assessing Officers, while detaining the consignment.

4. The learned counsel appearing for the petitioner produced a copy of the invoice relating to the purchase of the Excavator, which was also verified by Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondents.

5. Mr.Manoharan Sundaram, learned Additional Government Pleader submitted that, in view of the production of the invoice by the learned counsel for the petitioner, the respondents may be directed to release the consignment with vehicle and the 2nd respondent may be directed to verify the records of the petitioner and pass suitable orders, if necessary.

6. In view of the submissions made by the learned counsel on either side, I direct the 1st respondent to release the KOBELCO Hydraulic Excavator detained on 15.03.2016 pursuant to the Goods Detention Notice 665/15-16 dated 15.03.2016, forthwith on production of a copy of this order. Further, I direct the 2nd respondent to verify the records of the petitioner with regard to the purchase of the Excavator and if necessary, the 2nd respondent is directed to pass suitable orders.

With the above direction, the Writ Petition is disposed of.
No costs.

gya

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

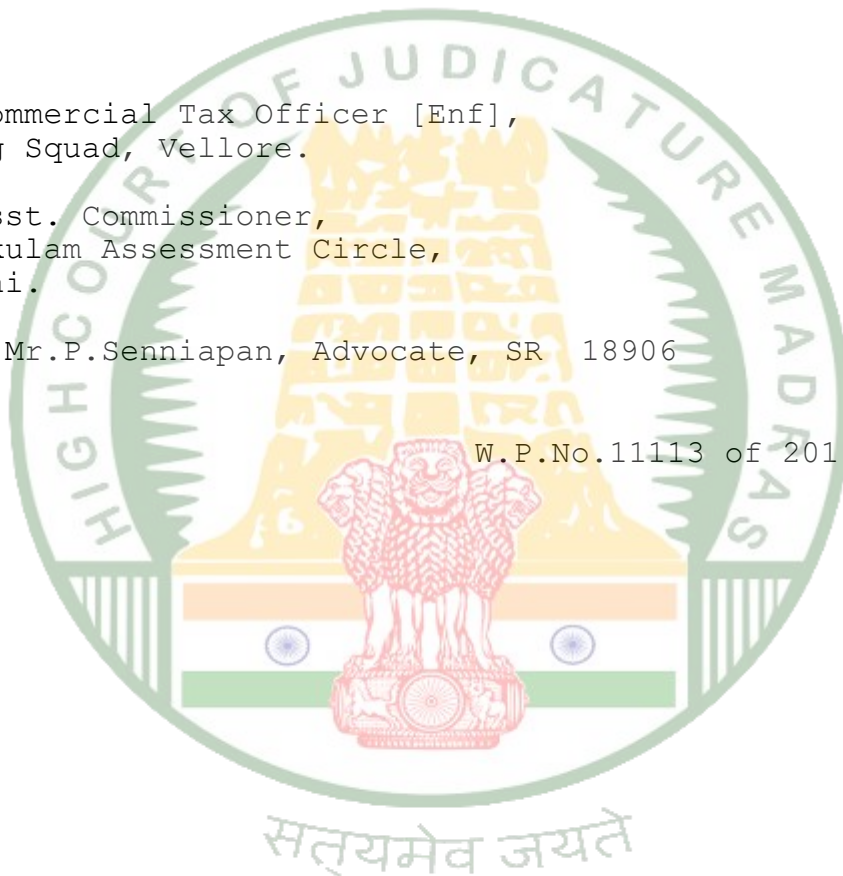
To

1. The Commercial Tax Officer [Enf],
Roving Squad, Vellore.
2. The Asst. Commissioner,
Tallakulam Assessment Circle,
Madurai.

+ 1 cc to Mr.P.Senniapan, Advocate, SR 18906

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