IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.13685 & 13686 of 2016 &
W.M.P.Nos.11974 & 11975 of 2016

Tvl.Niro Ceramic India pvt Ltd
Rep by its Manager Mr.Sudhir Rupareliya
No.406, 4th Floor INIZIO
Cardinal gracious Road, Chakala,
Andheri East, Mumbai-400 099. .. Petitioner in both W.Ps

v.

The Commercial Tax Officer
Roving Squad-1
Enforcement (North)
Chennai- 6 .. Respondents in both W.Ps

W.P.No.13685/2016 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, Calling for the records on the files of the respondent in G.D.No. 8/16-17/2016- 17, dated 06.04.2016 and quash the same being illegal invalid and violated the principles of natural justice and contrary to the law.

W.P.No.13685/2016 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, Calling for the records on the files of the respondent in G.D.No.7/16-17/2016- 17, dated 06.04.2016 and quash the same being illegal invalid and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mr.S.Kanmani Anamalai
Addl. Govt. Pleader (T)

COMMON ORDER

The petitioner has filed the above writ petitions to issue a Writs of Certiorari to call for the records on the file of the first respondent in G.D.Nos.7/16-17/2016- 17 and 8/16-17/2016- 17, dated 06.04.2016 and to quash the same.

2. It is the case of the petitioner that they are dealer in various kinds of tiles and assessee in the State of Maharastra. The petitioner, in their regular course of business, received purchase order from a dealer at Chennai in the State of Tamil Nadu. To comply with the purchase order, the petitioner imported tiles from China and cleared the same from the Customs House with the assistance of Customs House Clearing Agent at Chennai. To deliver the goods at the buyer work site at Chennai, the goods were moved in Vehicle Nos.TN 05 AD 1001 and TN 04 AE 0288 from Customs House with "Form KK" a document prescribed under the Tamil Nadu Value Added Tax Act, Tax invoice and delivery challans. The consignments were detained by the respondent on 06.04.2016 at Ennore High Road and Detention Notice Nos. 7/16-17/2016- 17 and 8/16-17/2016- 17 were issued.

3. Mr.D.Vijayakumar, learned counsel appearing for the petitioner submitted that the respondent has no authority to detain the vehicles and the consignments.

4. Mr.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondents submitted that since the goods were imported from China and were taken to buyer work site at Chennai, the respondent has no authority to detain the goods and therefore, the impugned orders dated 6.4.2016 may be set aside and the respondents may be directed to release the vehicles.

5. Having regard to the submissions made by the learned counsel on either side, since the petitioner had imported the goods from China and were transporting the same to the place of business of the buyer in the vehicles mentioned above, the respondent has no authority to detain the goods and pass the goods detention notices.

6. In these circumstances, the impugned orders dated 6.4.2016 passed by the respondents are set aside and the respondent is directed to release the vehicles mentioned above and the goods on production of a copy of this order.

With these observations, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Rj

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer
Roving Squad-1
Enforcement (North)
Chennai- 6

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 23710

+ 2 ccs to Mr.D.Vijayakumar, Advocate SR 23514

rv(co)
prk15/4

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