

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.13837 of 2016 &

W.M.P.Nos.12131 & 12132 of 2016

Mahendra Kumar

... Petitioner

v.

1 The Commissioner
Food Safety and Standards
359 5th Floor DMS Building
Anna Salai, Teynampet
Chennai- 600 006

2 The Food Safety Officer
Food Safety and Standards
Krishnagiri District

3 The Thasildar
Hosur Krishnagiri District
Tamil Nadu

4 The Sub-Collector
Hosur, Krishnagiri District
Tamil Nadu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the 2 to 4 respondents herein to forthwith release the 160 bags of HANS CHHAP Tobacco Products detained under the proceedings and the petitioner vehicle bearing Reg. No. RJ 14 GF 8719

For Petitioner : Mr.A.R.L.Sundaresan, Senior Counsel
for M/s A.L.Ganthimathi

For Respondents : Mr.M.S.Ramesh
Addl. Govt. Pleader (Taxes)

ORDER

The petitioner has filed the above writ petition to issue a writ of mandamus directing the respondents 2 to 4 to forthwith release the 160 bags of HANS CHHAP Tobacco Products detained under the proceedings and the petitioner's vehicle bearing Registration No. RJ 14 GF 8719

2. It is the case of the petitioner that he is carrying on business as Goods Transport Operator within the country under the name and style of M/s.Bright Road Logistics, Bengaluru. The petitioner is the owner of TATA 2518 model transport vehicle bearing Registration No. RJ 14 GF 8719 with National Permit for goods carrier. On 03.12.2015, M/s Shiv Shambu Trading Co., Khasra, No.14/22, E Block, Swaroop Nagar, New Delhi, had sold a consignment of Tobacco of 160 bags under invoice Nos.29 and 30 to Sri Vasudev Traders, Salem, who is registered dealer under the CST and TNVAT Act. The said purchaser had purchased it for the purpose of resale to M/s.Dhuruva Trading Company, Puducherry. On 11.12.2015, the petitioner's vehicle was intercepted by the Commercial Tax Officer, Bengaluru and seized 160 Bags of HANS CHHAP Tobacco and gave a goods Detention notice dated 11.12.2015. Thereafter, the Commercial Tax Officer (Enforcement), Bengaluru after conducting investigation and verification of the documents accompanying the goods, the goods were released on 31.12.2015 and allowed the petitioner to cross the Karnataka State border. The said vehicle carrying the Tobacco produces was again intercepted at 8.00 p.m. by the Village Administrative Officer, Thasildar, Sub-Collector of Krishnagiri District at the Attibele Tollgate and subsequently, seized stating that it was carrying banned products. Apart from seizure of the goods, the 3rd respondent had also detained the said vehicle and later entrusted the said vehicle to the 2nd respondent. According to the petitioner, the consignment of HANS CHHAP Tobacco was seized by the second respondent by its proceedings in Na.Ka.No.39/2016 dated 27.01.2016 and held that FSS Act and Regulations contained therein are not applicable to Tobacco. The petitioner gave representations dated 1.3.2016 and 28.3.2016 to the respondents 3 and 4, however, the consignment and the vehicles were not released.

3. Mr.A.R.L.Sunderasan, learned Senior Counsel appearing for the petitioner submitted that in similar circumstances, this Court, by order dated 07.03.2016 in W.P.No.311 of 2016 had directed the 3rd respondent therein to consider the grievance of the petitioner by permitting him to produce all the relevant documents pertaining to the transportation of tobacco to Pondicherry and on production of such documents, after verifying the documents, in the case of the 3rd respondent being satisfied with the same, shall allow the petitioner to

transport the tobacco to Pondicherry. Further, it was made clear in the said order that the petitioner therein shall not distribute the tobacco, which has been transported from New Delhi to Pondicherry within the State of Tamil Nadu. Further, the petitioner therein was also directed to file an affidavit of undertaking before the 3rd respondent to that effect. The learned Senior Counsel appearing for the petitioner submitted that since the issue involved in both the writ petitions are one and the same, the same order may be passed in the present writ petition also.

4. Mr.M.S.Ramesh, learned Additional Government Pleader appearing for the respondents submitted that the issue involved in the present writ petition is similar to the issue involved in W.P.No.311 of 2016, therefore, the respondents 2 to 4 may be directed to consider the petitioner's grievance and decide the matter in accordance with law. Further, the learned Additional Government Pleader submitted that since the purchaser is at Salem, it should be made clear that the petitioner should transport the consignment only to Pondicherry and not to Salem.

5. Having regard to the submissions made by the learned counsel on either side, I direct the respondents 2 to 4 to consider the grievance of the petitioner by permitting him to produce all the relevant documents pertaining to the transportation of tobacco to Pondicherry and on production of such documents, if the respondents 2 to 4, after verifying the documents, satisfied with the same, they shall allow the petitioner to transport the tobacco to Pondicherry. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the petitioner shall not distribute the tobacco, which has been transported from Bengaluru to Pondicherry, within the State of Tamil Nadu. It is also made clear that the petitioner shall not deliver the consignment at Salem or any other place in the State of Tamil Nadu. The petitioner shall also give an affidavit of undertaking before the respondents 2 to 4, to that effect.

With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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2 The Food Safety Officer
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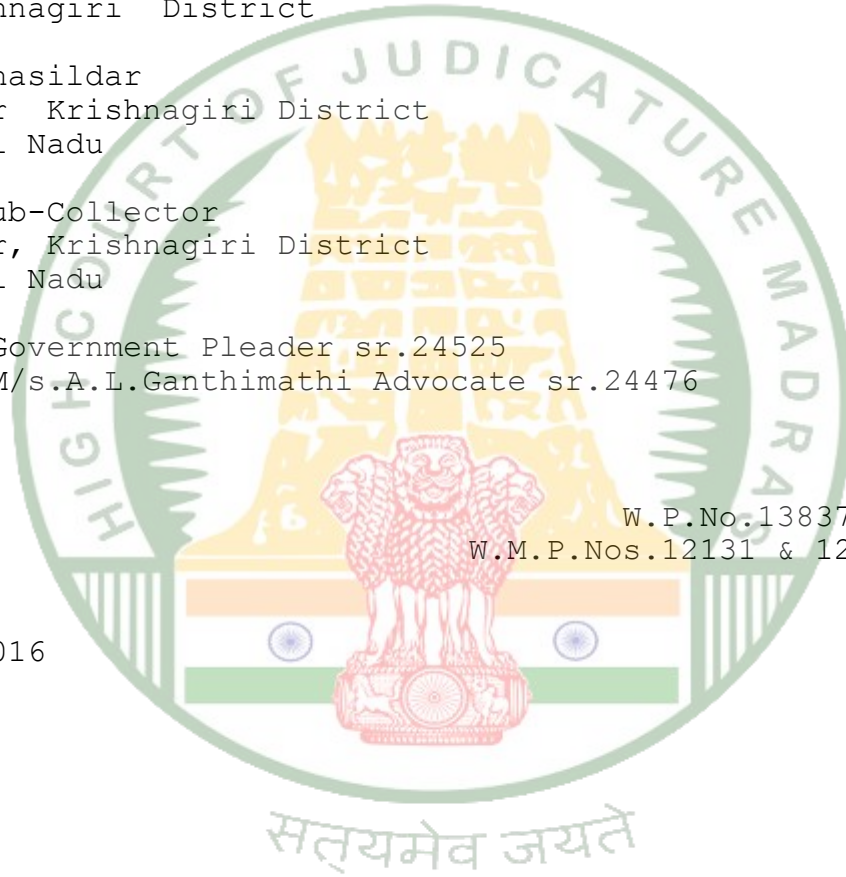
4 The Sub-Collector
Hosur, Krishnagiri District
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+1 cc to Government Pleader sr.24525

+1 cc to M/s.A.L.Ganthimathi Advocate sr.24476

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