IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-05-2016

CORAM

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

Writ Petition No.18186 of 2016

1 G.P.S.Petroleum Agencies
Represented by its Proprietor
C. Gurudhandapani S.F.No. 67/3 B1A
Jollankottai Uthangarai-Tk
Harur-635 307 [PETITIONER]

Vs

1 Deputy Commercial Tax Officer
Check Post Officer,
K.G. Chavady (Incoming)
Coimbatore-641 105 [RESPONDENT]

Writ petitions filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus To call for the impugned proceedings of the respondent passed in G.D.No. 31/2016-2017 dated 29.04.2016 and quash the same and further direct the respondent to release the consignment at once.

For Petitioner : Mr. N. Murali

For Respondents : Mr. V. Haribabu, AGP (T)

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed to quash the order of the respondent in the impugned proceedings of the respondent passed in G.D.No. 31/2016-2017 dated 29.04.2016 and quash the same and further direct the respondent to release the consignment.

3. The petitioner is a registered dealer under TNVAT Act, 2006 as well as Central Sales Tax Act, 1956 dealing in petrol, diesel and petroleum products and has main office in Harur.

4. The case of the petitioner is that their consignment vehicle bearing No.KL 01 BG 5043 was detained by the respondent at KG Chavadi Check Post Coimbatore for the reason on verification from their department website it was ascertained that the purchaser did not filed monthly returns and therefore, the genuineness of the transaction has to be verified and issued impugned notice on 29-04-2016 and directed the petitioner to pay the tax amount as well as to pay the compounding fee for release of consignment.

5. The petitioner would state that they have paid the monthly returns manually from the inception of business along with necessary tax dues and not electronically and would further submit that the respondent in case of any doubt over the transaction, the respondent should have contacted the concerned authorities for verification, instead passed the impugned order.

6. Mr.N. Murali, learned counsel for the petitioner submitted that when the goods has been accompanied by the requisite documents such as sales invoice and lorry receipt, the respondent ought to have released the consignment. It is further submitted that the impugned order has been passed by the respondent without affording opportunity and therefore, the order is illegal and against the principles of natural justice.

7. The learned Additional Government Pleader (T) on the other hand would submit that since the goods were transported without valid transit pass, the goods were detained.

8. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to pay the advance tax for release of consignment and reserve liberty to challenge the compounding notices separately before the appropriate authority and on such payment, the goods detained may be directed to be released.

9. In view of the submission made by the learned counsel for the petitioner that the petitioner is willing to pay the advance tax and in order to give a quietus to the issue, on payment of advance tax by the petitioner, the respondent, shall release the goods. With regard to the compounding fee, it is always open to the petitioner to challenge the same in the manner known to law.

10. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Check Post Officer,
K.G. Chavady (Incoming)
Coimbatore.

+1cc to Mr.N.Murali, Advocate sr.28647
+1cc to Special Government Pleader Sr.28877

Writ Petition No.18186 of 2016

ksj(CO)
srg(23/05/2016)