

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.21201 of 2016

M/s.TNSS Trailor Service

H.O.No.105, (Old No.53), Thambu Chetty Street

1st Floor, Chennai - 600 001.

Represented by its Authorised Signatory

Mr.S.Mani Murugan

.. Petitioner

..Vs..

1.The Commercial Tax Officer

Creams Road, Chennai - 600 006.

2.The Deputy Commercial Tax Officer

Puzhal Check Post, Chennai - 600 056.

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the second respondent to release the goods detained along with the 40 feet Trailer bearing No.TN 28 M 3389 pursuant to the detention notice in No.4091/2015-2016 dated 10.06.2016.

For Petitioner : Mr.R.C.Manoharan

For Respondent : Mr.S.Kanmani Annamalai, A.G.P.,

ORDER

Heard Mr.R.C.Manoharan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents and with the consent of the either side, the writ petition itself is taken up for final disposal.

2.The petitioner is an authorized transport contractor for BHEL, which is a Government of India undertaking. The petitioner was authorized to transport a consignment covered by delivery note bearing no.7668051 and as per the contract, the petitioner has got three months time to clear the goods. The delivery note

was issued on 09.04.2016 stating that the consignment was loaded in a vehicle bearing no.TN-28-P-5699. It appears that the said vehicle has suffered break down and therefore, the petitioner has to change the consignment to another vehicle bearing no.TN-28-M-3389. On account of this, the second respondent has detained the vehicle along with the consignment at the check post and a goods detention notice was issued.

3.The petitioner immediately approached the BHEL and obtained a certificate dated 16.06.2016 certifying that the consignment was loaded in vehicle bearing no.TN-28-P-5699 which has suffered a break down in Chennai and the prime mover TN-28-M-3389 is carrying the load to the site and the delay is accepted as per the contract and the vehicle may be permitted to move to site. This certificate from BHEL along with the representation has been given to the respondent by the petitioner on 18.06.2016. However, till date the vehicle has not been released and therefore, the petitioner is before this Court.

4.The learned Additional Government Pleader pointed out that the delivery note is dated 09.04.2016, but the vehicle was transporting the consignment only on 10.06.2016 and there is a delay of nearly two months.

5.In my view, there need not be any doubt as regards the said transport contract in the light of the certificate given by BHEL, dated 16.06.2016. There is no reason to disbelieve the said certificate which has been issued by a responsible officer of a Government of India undertaking. That apart, in the said certificate, the BHEL has certified that the delay is accepted as per the contract and they have also requested that the vehicle may be permitted to move to the site. Further, from the photographs produced by the petitioner, it is seen that the vehicle has been parked in the road margin of the highway and it may pose a haphazard to the moving traffic. Therefore, on that ground also the vehicle should be permitted to pass.

6.In the light of the above, the writ petition is allowed and the second respondent is directed to accept the petitioner's representation dated 18.06.2016, along with the letter issued by the BHEL on 16.06.2016 and release the vehicle as well as the consignment forthwith, on receipt of the copy of this order. No costs.

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-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

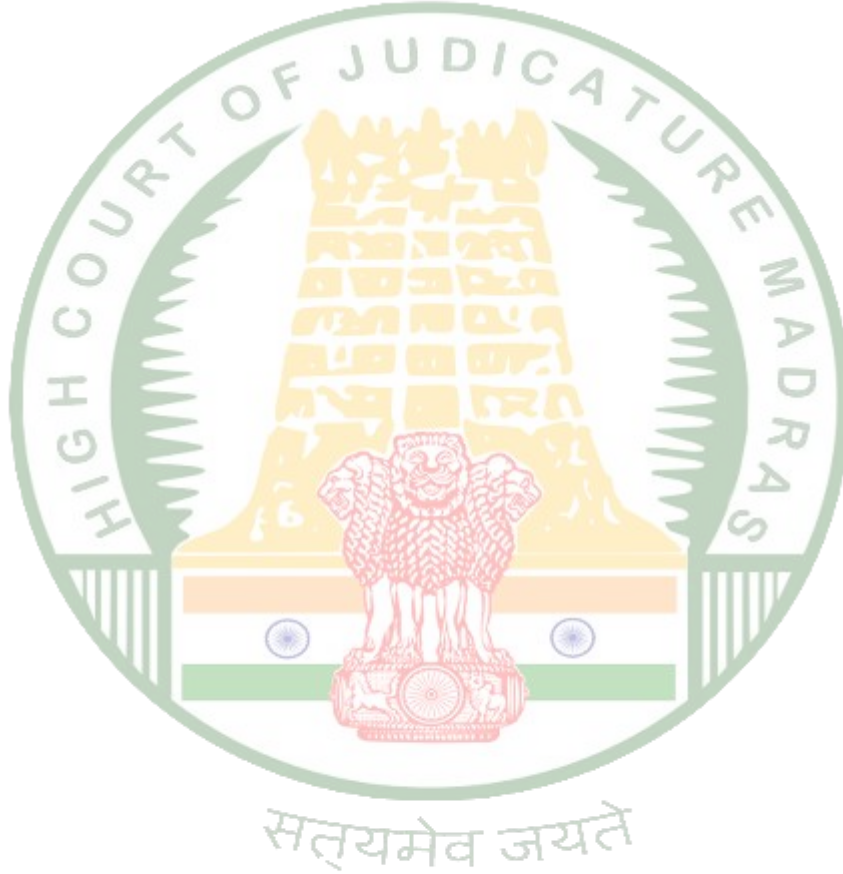
1.The Commercial Tax Officer
Creams Road, Chennai - 600 006.

2.The Deputy Commercial Tax Officer
Puzhal Check Post, Chennai - 600 056.

+ 2 ccs to Mr.R.C.Manoharan, Advocate SR 34407

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