IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.39776 of 2015

M/s.Bacardi India (P) Ltd.,
represented by its Authorised Signatory
Mr.T.Vilas Verghese,
No.44/65, Zacharias Builders,
Panchali Amman Koil,
Arumbakkam, Chennai 600 106. .. Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
   Pattanur Check Post,
   Villupuram.

2. The State of Tamilnadu,
   represented by its Secretary,
   Commercial Taxes and Registration Department,
   Fort St. George,Chennai 600 009. ... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to call for the records of the first respondent in Goods Detention Notice No.2734 and quash the impugned proceedings dated 01.12.2015 and further direct the first respondent to allow the petitioner to move the goods to be taken to M/s.Lakshmi Vinayaka Beverages, No.25, Anna Salai, Pondicherry 605 001.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.V. Haribabu,
Additional Government Pleader (T)

ORDER

This writ petition has been filed by the petitioner challenging the impugned proceedings of the 1st respondent in Goods Detention Notice No.2734 dated 1.12.2015 and further direct the first respondent to allow the petitioner to move the goods to be taken to M/s.Lakshmi Vinayaka Beverages, No.25, Anna Salai, Pondicherry 605 001.

2. The petitioner who is a manufacturer of liquor known as 'BARCADI', is a registered dealer on the files of Goa Commercial Taxes Department and the manufacturing plant is situated at Phase-III B, Sancoale Industrial Estate, Zurainagar Sancoale Goa, Pincode 403 726. Pursuant to the purchase order placed by one of its agents viz., M/s.Lakshmi Vinayaka Beverages at No.25, Anna Salai, Pondicherry 605 001, the goods were transported from the State of Goa to the Union Territory of Pondy disclosing the seller and buyer and sufferance of Central Sales Tax at 2%. The movement of goods were accompanied by export permit of Government of Goa to Pondicherry along with the import permit issued by the Government of Pondicherry.

3. When the goods were in transit, it was intercepted by the respondent and on suspicion, the goods were detained on the ground that the transit pass was not produced at the time of inspection of vehicle, which is violation of the Act and Rules and the impugned proceedings were served on the lorry driver by the respondent. The reason adduced by the respondent for detention is non production of transit pass as well as copies of invoices. Challenging the same, the petitioner is before this Court.

4. According to the learned counsel appearing for the petitioner, for transporting IMFL, necessary documents were produced except the transit pass generated, other than this technical violation, there is absolutely no suspicion about the genuineness of the accompanying documents and the seal affixed on the invoice at the time of entry at the Check Post. Hence according to him, the impugned goods detention notice is arbitrary and illegal.

5. Further he contended that had the respondent conducted an enquiry and given an opportunity of hearing, the petitioner would have been able to effectively represent its case before the respondent. The learned counsel also submitted that failure to generate E-Transit pass would be a lapse and the same shall not lead to imposition of Tax by deeming the goods to have been sold in Tamilnadu.

6. The learned Additional Government Pleader on instructions, submitted that if the petitioner produces relevant papers by which, the authority would be able to co-relate the entries available in the outer check post. He also fairly submitted that if the petitioner is able to prove that

they are taking away the goods outside the state and there is no tax liability in Tamilnadu, then the authority can only levy a sum of Rs.2000/- for lapses. The said fair submission made by the Additional Government Pleader is recorded.

7. In the light of the above, the petitioner is directed to pay a sum of Rs.2000/- (Rupees two thousand only) towards fine for the purpose of release of goods and on such payment along with necessary copies of documents, the goods shall be released forthwith. It is also brought to the notice of this Court that by proceedings in G.D.No.2734/2015-16 dated 10.12.2015, revised compounding notice had already been issued. If that being so, it is open to the petitioner to meet out the said notice in the manner known to law.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Commercial Tax Officer,
Pattanur Check Post,
Villupuram.

2. The Secretary,
Commercial Taxes and Registration
Department,
Fort St. George,Chennai 600 009.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.1196
+1cc to the Government Pleader, S.R.No.1362

W.P.No.39776 of 2015

lrs(CO)
srg (08/01/2016)