IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.2286 of 2016

M/s.Tamil Nadu Logistics
Rep by its Proprietor,
No.12, Broadway, Chennai-108. ...Petitioner

Vs

Commercial Tax Officer,
Roving Squad-III,
Enforcement [North],
Chennai-6. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent who has no powers to detain goods which are not in physical moment from one place to another, but kept in the lorry godown in his proceedings in G.D.No.6179 dated 11.01.2016 and quash this detention order as illegal and contrary to the provisions of the TNVAT Act and direct the respondent to release the goods.

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Mr.V.Haribabu, AGP

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner has filed this writ petition, challenging the goods detention notice dated 11.01.2016 issued by the respondent and consequently, seeking a direction to the respondent to release the detained goods.

3.According to the petitioner, the petitioner is operating transport services to deliver the parcel of goods received from Mumbai and Delhi to the consignees at Chennai. In the course of such business, the godown of the petitioner was inspected and the goods stored therein for delivery, were detained for want of valid documents by the respondent on 11.01.2016. Subsequently, a Goods Detention Notice came to be issued, against which, the petitioner is before this court.

4.Learned counsel for the petitioner submitted that when the goods were unloaded from the vehicle and kept in a lorry godown, the respondent has no authority to check the same. Further, learned counsel for the petitioner submitted that though the petitioner produced all the bills and invoices at the time of inspection, the respondent without verifying the same, opened all the parcels and detained the goods. Therefore, the impugned notice is arbitrary, illegal and without any authority. However, the learned counsel for the petitioner submitted that the petitioner is inclined to pay the tax to be quantified by the authority concerned for the purpose of the release of the goods.

5.On the other hand, Mr.V.Haribabu, learned Additional Government Pleader, who took notice for the respondent submitted that when the petitioner's goods were transported, it was checked. He further submitted that when the driver of the vehicle refused to produce the valid documents, the respondent detained the goods for the purpose of verifying the genuineness of the transactions, as such, the impugned notice came to be issued as per law.

6.Heard the rival submissions made on both sides and perused the materials available on record.

7.Though the learned counsel for the petitioner raised various grounds against the impugned notice, he ultimately submitted that the petitioner is willing to pay the tax amount to be quantified by the authority concerned for the purpose of early release of the goods. In view of the same and also in the interest of justice, this Court is inclined to order release of the goods detained by the respondent.

8.Accordingly, the respondent is directed to, in consultation with the Assessing Officer concerned, quantify the tax to be paid by the petitioner. On such quantification and on intimation, the petitioner is directed to pay the same. On such payment by the petitioner, the goods detained under the impugned notice, shall be released forthwith. With regard to compounding fee, it is always open to the petitioner to challenge the same before the competent authority in the manner known to law.

9.The writ petition is disposed of with the above terms. No costs.

sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub-Assistant Registrar

rk/gya

To
The Commercial Tax Officer, Roving Squad-III,
Enforcement [North], Chennai-6.

+1 CC to MR.C.Baktha Siromoni Advocate. SR.NO. 3885

+ 1 cc to Spl.Govt.Pleader (Taxes),Hct. Mds-104 SR 4145 (3/2/16)

W.P.No.2286 of 2016

AR-CO
JD 22/01/2016