IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2016

CORAM

THE HON'BLE Mr.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HON'BLE Dr.JUSTICE P. DEVADASS

Writ Appeal No.994 of 2016
and
CMP.Nos.12955 & 14386 of 2016

1.The Deputy Commissioner [CT],
Enforcement Wing,
Pitchards Road,
Hasthampatty, Salem 7.

2.The Joint Commissioner,
Enforcement Wing,
Pitchards Road,
Hasthampatty, Salem 7. ... Petitioners

Vs.

R.Kannan,
Proprietor,
M/s.Sri Vasudev Traders, Salem. ... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order passed by the learned Single Judge in W.P.No.23207 of 2016 dated 05.07.2016.

WP.No.23207 of 2016:Writ Petition filed under Art 226 of the Constitution of India seeking for a Writ of Mandamus to Direct the respondents 1 to 2 to consider the representation dated 02.07.2016 with in stipulated time fixed by this Honourable Court

For Petitioners : Mr.S.Kanmani Annamalai, Spl. GP

For Respondent : Mr.G.Murugendran
for Mr.M.Ramesh

J U D G M E N T

[Judgment of the Court was delivered by
NOOTY.RAMAMOHANA RAO, J.]

This Writ Appeal is preferred against the Order dated 05.07.2016 passed by the learned single Judge disposing of W.P.No.23207 of 2016 with a direction to quantify the one time tax and upon receipt of such amount of tax, the goods along with the vehicle is to be released forthwith.

2. The Deputy Commissioner of Commercial Tax and the Joint Commissioner of Commercial Tax are the appellants. The apprehension entertained by them was that, once the goods are released and the vehicle goes, the Department will seldom be in a position to proceed against them later on, as the Tamil Nadu Value Added Tax Act, 2006 provides for proceeding against the owner of the goods as well as the owner of the vehicle.

3. In this view of the matter, all we need to add to what was already observed by the learned Single Judge, is:

[i] The appellants are at liberty to act in accordance with law against, the owner of the goods, in case it is detected that evasion of tax was indulged by such owner.

[ii] If the vehicle owner is also liable to be proceed against, the Department can do so and for which purposes, copy of the Registration Certificate of the vehicle be obtained.

[iii] Copy of the Driving Licence of the person driving the vehicle or in charge of the goods can also be obtained.

[iv] The goods in question shall be released only to its true owner, upon production of the certificate of ownership or an undertaking affidavit of the ownership, faithfully disclosing the true identity of the individual who is claiming ownership of the goods together with proof of identity. Obligation to indemnify the Department against any possible third party claim of ownership arising at any later point of time regarding the goods in question, is recorded.

4. The Writ Appeal stands disposed of with this order. Connected Miscellaneous Petitions stand closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

+1 cc to M/s.G.Murugendran Advocate sr 51541

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