IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30557 of 2016

Nizam Traders,
Rep. by its Proprietor,
No.537, Nithiyanantha Nagar,
Ellis Chathiram Road,
Near New Bus Stand,
Villupuram. ...Petitioner

Versus

The Commercial Tax Officer (Enforcement),
Roving Squad,
Cuddalore. ...Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the entire records of the respondent in GD.No.719/2016-17, dated 28.08.2016 and quash the orders passed therein and direct the respondent to release the detained goods of the petitioner in the vehicle bearing Registration No.TN 29 AW 6666.

For Petitioner : Mr.A.P.Srinivas

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.A.P.Srinivas, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2. This Writ Petition has been filed challenging the goods detention notice and the compounding notice issued by the respondent. The goods have been detained while it was moving to Ulundurpet. On perusal of the documents

accompanying the consignment, it was seen that the goods were transported from Chennai to Pondicherry and in the document sheet, it has been stated, as if the tanker lorry crossed Kandamangalam Check-post at 10.55 p.m. on 26.08.2016. However, at 2 a.m. on the next day (27.08.2016), it was intercepted by the Ulundurpet Check-post and the respondent took a stand that it was impossible for a lorry to have come to Ulundurpet at 2 a.m, if it had crossed Kandamangalam Checkpost at 10.55 p.m. on 26.08.2016. To test the correctness of the impugned order, the disputed questions of fact need to be adjudicated and that cannot be done in a Writ Petition. Therefore, the proper course to be adopted by the petitioner is to file a revision before the concerned Joint Commissioner against the impugned order.

3. Accordingly, the Writ Petition stands disposed of by directing the petitioner to file a revision petition before the concerned Joint Commissioner, within a period of two weeks from the date of receipt of a copy of this order. There is no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

r n s

To

The Commercial Tax Officer (Enforcement),
Roving Squad,
Cuddalore.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No. 71472

+1cc to the Government Pleader, S.R.No. 71236

W.P.No.30557 of 2016

NRJK (CO)
PSI (29/12/2016)