IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.31297 of 2016 &

W.M.P.Nos.27159 and 27160 of 2016

TVL. VRL. Logistics Limited,
Represented by its Deputy GM,
L.S.Ravi,
No.128/1, Vanagaram,
Ambattur Road,
Ayyanambakkam, Chennai-600 095. .. Petitioner

Versus

1.State of Tamil Nadu represented by
Its Secretary, The Commercial Tax Department,
Chennai.

2.The Deputy Commercial Tax Officer,
Office of the Deputy Commercial Tax Officer,
Katpadi Checkpost, Katpadi. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the second respondent notice dated 30.08.2016 in G.D.No.1558/2016-17 and quash the same.

For Petitioner : M/s.K.Aparna Devi
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard M/s.K.Aparna Devi, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for disposal.

2. In this Writ Petition, the petitioner has challenged the Goods Detention Notice, dated 30.08.2016, stating that the same is wholly illegal and without jurisdiction.

3. When the Writ Petition came up for hearing on 08.09.2016, the learned Government Advocate was directed to get instructions in the matter. Accordingly, the second respondent has given the following written instructions:-

> "1. VRL Logistic Limited does not have a valid TIN Number at the time of detention at the check post. In fact the (TIN No.29610372690) which he had mentioned belongs to State of Karnataka.
>
> 2. The petitioner purchased Bio Diesel from Tvl.Universal Biofuels Pvt. Ltd., Kakinada, Andhra Pradesh. But goods were delivered at Madurai without any documents.
>
> 3. VRL Logistics limited has not enclosed any details to show that they are using the same for their own use.
>
> 4. VRL Logistic Limited has purchased goods to use within the State of Karnataka, but transported the goods to Madurai.
>
> 5. The commodity as highly inflammable commodity, hence storage details are not known and Fire service Authority will normally issue the clearance certificate was not available at the time of detention."

4. With regard to the first issue pointed out by the second respondent, the petitioner is not a registered dealer in the State of Tamil Nadu, they have applied for registration only now and expected to be given shortly. However, the said registration is not required, since it is a specific case of the petitioner that the goods have been transported to their Establishment at Madurai for the use of their vehicles. That apart, this Court is inclined to accept the submission of the petitioner that they are not dealers in Bio Diesel and in the light of the fact that in respect of an identical consignment which was detained at Pethikuppam Check Post, Gummudipoondi, the Authority, after due verification passed a release order dated, 27.08.2015, levying compounding fee of Rs.2,000/-. Therefore, with regard to issue No.2, the copy of the affidavit and way bill filed before this Court which clearly shows that the nature of transaction is a clear transaction.

5. With regard to third issue, the petitioner has given a self-declaration dated 20.08.2016 that the Bio-diesel product was procured at Kakinada, Andhra Pradesh and it is taken to Madurai for their own fleet consumption purpose only and not for sale. Unless and until, the second respondent has some material to disbelieve the self-declaration, the same cannot be brushed aside. This is also the answer to issue No.4. With regard to issue No.5, the same is beyond the purview of the second respondent.

6. Thus, considering the fact that identical goods were released earlier, after conducting due verification, this Court is inclined to issue appropriate directions for release of goods detained and accordingly, the Writ Petition is allowed and the impugned order is set-aside and the second respondent is directed to forthwith release the goods, after collecting a compounding fee of Rs.2,000/- (Rupees Two Thousand only). No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

r n s

To

1. The Secretary,
The Commercial Tax Department,
Government of Tamil Nadu,
Chennai.

2.The Deputy Commercial Tax Officer,
Office of the Deputy Commercial Tax Officer,
Katpadi Checkpost, Katpadi.

+1 CC to Spl. Govt., Pleader (Taxes) Sr.No.51789
+2 CC to Mr. P. Subba Reddy, Sr.NO.51742

W.P.No.31297 of 2016 &
W.M.P.Nos.27159 and 27160 of 2016

SKV (CO)
MD : 12/09/2016