In the High Court of Judicature at Madras

Dated : 19.9.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.32460 of 2016 & WMP.No.28157 of 2016

Tvl.Madras Steels and Tubes,
rep. by its Proprietor Narendra
Sakariya ...Petitioner

Vs

1.The State of Tamil Nadu, rep.by its Secretary to Government, Department, of Commercial Taxes and Registration Department, Fort.St.George, Chennai-9.

2.The Commissioner of Commercial Taxes, II Floor, Chepauk, Chennai-5.

3.The Joint Commissioner (CT), Enforcement Wing, Vellore.

4.The Deputy Commercial Tax Officer, Ranipet (In) Check Post, Serkaddu, Vellore District. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the issue of the notice by the fourth respondent in 2084/2016-17 dated 12.9.2016 received by the petitioner on 12.9.2016, quash the same and direct the fourth respondent to release the vehicle.

For Petitioner : Mr.M.Md.Ibrahim Ali
For Respondents : Mr.K.Venkatesh, GA (T)

ORDER

Heard the learned counsel on either side and Mr.M.Vadivazhagan, the fourth respondent appearing in court. By consent, the writ petition itself is taken up for final disposal.

2. The order impugned in this writ petition is a notice issued pursuant to the goods detention notice dated 11.9.2016.

3. The only reason for detention of goods, as mentioned in the goods detention notice, is that the goods transported from Sultanpur to Chennai were accompanied by defective documents more particularly that the consignee has not submitted the online Form JJ.

4. It is not in dispute that the Commissioner of Commercial Tax issued a circular to Check Post Officers as well as Assessing Officers, as a guiding principle, as to how the documents have to be verified and as to what are the records required to be produced by the transporter while the goods cross a check post. It has been observed in the circular that if certain forms are not available, then it is open to the officers to see the other records available, which are accompanying the goods, take note of any earlier movement of similar goods and render a decision.

5. Therefore, it is to be seen that the fourth respondent detained the goods solely on the ground that the online Form JJ has not been produced. In fact, in the impugned notice dated 12.9.2016, the fourth respondent has clearly stated as to what is present Rule 15, which stood substituted under the Tamilnadu Value Added Tax Act, 2006. The said Rule states that a bill of sale or a delivery note in Form JJ generated from the website of the Commercial Taxes Department along with the transporter's way bill in Form MM generated from the website of the said Department and a goods vehicle record or trip sheet or log book has to be produced.

6. In the instant case, admittedly, the computer generated Form JJ was not produced and the petitioner produced the invoice and the lorry receipt and these are records, which can be taken into consideration by the fourth respondent in terms of the amended Rule 15.

7. In the light of the above, the writ petition is allowed, the impugned order is set aside and the fourth respondent is directed to release the goods as well as the vehicle forthwith on production of a copy of this order. No costs. Consequently, the above WMP is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Secretary to Government of Tamil Nadu, Department of Commercial
Taxes and Registration Department, Fort.St.George, Chennai-9.
2.The Commissioner of Commercial Taxes, II Floor, Chepauk, Chennai-5.
3.The Joint Commissioner (CT), Enforcement Wing, Vellore.
4.The Deputy Commercial Tax Officer, Ranipet (In) Check Post, Serkaddu, Vellore District.

+1 CC to Mr. M. Md. Ibrahim Ali, Advocate Sr.No.52971

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WMP.No.28157 of 2016

GJ (CO)
MD : 20/09/2016