IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33761 of 2016
& W.M.P.No.29136 of 2016

Tvl.Jindal Pipes Limited,
Rep. by its Authorised Signatory, Thiru.M.Prakash
No.39, D.No.84, 200 Feet, Ring Road,
Madhavaram,
Chennai - 600 118. .. Petitioner

Versus

1. The State of Tamil Nadu
Rep. By its Secretary to Government,
Department of Commercial Taxes and Registration,
Dept. of Fort St.George, Chennai - 600 009.
2. The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
Chennai - 600 005.
3. The Joint Commissioner (C.T.)
Enforcement Wing, Vellore.
4. The Deputy Commercial Tax Officer,
Ranipet (In) Check Post,
Serkaddu, Vellore District. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to the issue of the notice by the 4th respondent in G.D.No.2085/2016-17, dated 12.09.2016 received by the Petitioner on 12.09.2016 and quash the same and to direct the 4th respondent to release the vehicle bearing TN 28 AR 1995.

For Petitioner : Mr.M.Md.Ibraham Ali

For Respondents : Mr.S.Kanmani Annamalai, AGP

O R D E R

Heard Mr.M.Md.Ibraham Ali, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents. By consent of the learned Counsel appearing for both sides, the Writ Petition itself is taken up for final disposal.

2. The petitioner has challenged the detention notice issued by the 4th respondent dated 12.09.206. The goods in question had been detained on the ground that the goods transported by the petitioner from Sultanpur to Mathavaram, Chennai, were verified and it was found that the consignor Online Form-JJ and Form-MM have not been submitted and the genuineness of the transaction has to be verified in order to safeguard the interests of the Revenue.

3. The learned counsel for the petitioner has stated that the very same 4th respondent had detained similar consignment in respect of other dealers for the very same reason and the said detention notice was challenged by a dealer, viz., M/s.Madras Steels and Tubes, in W.P.No.32460 of 2016 and the said writ petition was allowed, by an order dated 19.09.2016.

4. It is submitted that the petitioner has produced the Invoice dated 09.09.2016 and Lorry receipt and these things can be verified by the 4th respondent and the goods detained shall be released by the 4th respondent.

5. The learned Additional Government Pleader, after setting out the facts, has stated that with effect from 29.01.2016 the facility of Online Form-JJ and Form-MM have been introduced, so as to avoid inconvenience for the dealers to move goods from one state to another. Since the same have not been produced by the petitioner, the goods were detained and therefore, the petitioner has committed an offence punishable under Sections 71(3)(d), 71(3)(e), 71(7) of the TNVAT Act, 2006 and an opportunity has been granted to compound the offence under Section 72(1)(a) of the TNVAT Act 2006.

6. The question is, as to whether the goods could have been detained by the 4th respondent solely on the ground that the Online Form JJ and Form-MM have not been produced.

7. The said question came up for consideration earlier before this court in several matters including in the matter relating to the M/s.Madras Steels and Tubes, wherein the 4th respondent is the Detention Officer and this Court observed that a bill of sale or 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 goods vehicle record or trip sheet or log book have to be produced.

8. In the instant case, admittedly, the petitioner has produced the Invoice and Lorry receipt and these can very well be verified by the fourth respondent and merely because the computerised online Forms JJ / MM have not been produced that

cannot be a sole reason for detaining the goods.

9. In the light of the above, the Writ Petition is allowed and the impugned order is set aside and the 4th respondent is directed to release the goods, after verifying the Invoice and Lorry receipt on production of copy of this order. No costs. Consequently, connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Secretary to Government, State of Tamil Nadu
Department of Commercial Taxes and Registration,
Dept. of Fort St.George, Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk, Chennai - 600 005.

3. The Joint Commissioner (C.T.), Enforcement Wing, Vellore.

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

1 cc to Mr.Md.Ibrahim Ali, Advocate, sr.54957
1 cc to Special Government Pleader(Taxes), sr.55077

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gj co
kra 28.09.2016