IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33791 of 2016
& W.M.P.No.29154 of 2016

Reyna multiple Sales Lohgins,
Rep. By its Propreitrix,
11/63-A, Krishnasamy Nagar School Road,
Ramanathapuram,
Coimbatore - 641 015. .. Petitioner

Versus

The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi. .. Respondent

Prayer: Petition 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.1579/2016-17 dated 19.09.2016 and quash the orders passed therein and direct the respondent to release the detained goods transported in the vehicle bearing Registration No.TN 18 K 2071.

For Petitioner : Mr.A.P.Srinivas

For Respondent : Mr.S.Kanmani Annamalai, AGP

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. By consent of the learned Counsel appearing for both sides, the Writ Petition itself is taken up for final disposal.

2. In this Writ Petition, the petitioner challenges the goods detention notice dated 19.09.2016 issued by the respondent, by which the goods transported by the petitioner, viz., Rice Bran Oil, has been detained, as the petitioner had not produced acceptable documents with a view to safeguard the interest of the Revenue. Prior to the impugned notice, earlier a notice was issued to the petitioner on 18.09.2016, stating that

the petitioner transported goods from Samalkotta to Coimbatore, and the place of delivery as Mangalore, without mentioning the TIN number and therefore, to verify the genuineness of the transaction, the goods were detained.

3. The petitioner's case is that it is a firm, which is a registered dealer in the State of Tamil Nadu and it had identified a buyer in Karnataka, i.e, at Mangalore and the goods are sold from a dealer in Andhra Pradesh and they were directed to Mangalore and the place of delivery at Mangalore is not disclosed specifically and the purchaser at Mangalore had taken delivery of the goods from the lorry shed.

4. The petitioner's further case is that for such type of transaction, a quasi-purchasing Form LL, i.e., from the consigner is required, as the goods are unable to enter the State of Tamil Nadu. However, the fact remains that the goods were transported in the vehicle bearing Tamil Nadu registration number and entered the state of Tamil Nadu at Katpadi and it is where the goods have been detained. The reason given by the petitioner is that on account of the recent riots in Bangalore, the vehicle transporting goods could not enter into Bangalore to reach Mangalore and therefore, the vehicle entered Katpadi, so that the goods can travel via Coimbatore, then Ullal and reach Mangalore.

5. In order to establish their claim, the petitioner produced the requisite e-SUGAM FORM issued by the Department of Commercial Taxes, Government of Karnataka dated 19.09.2016. Thereafter, the second notice dated 19.09.2016 (impugned notice) has been issued stating that the petitioner has not produced the Online generated Form-JJ and Form-LL.

6. The learned Counsel for the petitioner pointed out that the petitioner is not required to produce Form-LL on account of the fact that they are buyer and they have now generated Online Form-LL dated 19.09.2016.

7. The respondent has produced the original files which have been placed before this Court by the learned Additional Government Pleader and from the file, it is seen that a representation has been preferred by the petitioner on 20.09.2016 in respect of proposing to levy the tax and compounding fee on the ground that it has not produced transit pass.

8. However, the petitioner's case is that they have produced the transit pass, in terms of Rule 15 (17) of the TNVAT Rules and it is being an Online generated transit pass, the respondent can very well verify the same.

9. Thus, considering the facts and circumstances of the case and taking note of the contract between the petitioner and the buyer at Karnataka and their supplier at Andhra Pradesh and after perusing the Invoice dated 18.09.2016, wherein the name of the petitioner has been shown and the place of delivery is shown as Mangalore, via Bangalore, and also considering Form-LL dated 19.09.2016, this court feels that it is a fit case where the respondent has to take note of these documents and release the goods.

10. In the light of the above, the Writ Petition is allowed and the respondent is directed to take note of the Forms and Documents produced by the petitioner, verify the same and release the goods in question, on production of a copy of this order. No costs. Consequently, connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Katpadi Check Post,
Katpadi.

+1cc to Mr.A.P.Srinivas, Advocate Sr.55229
+1cc to the Special Government Pleader Sr.55076

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rj[co]
srg 28/09/2016