

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2016

Coram :

The Hon'ble Mr.Justice K.KALYANASUNDARAM

W.P.No.3409 of 2016
and
W.M.P.No.2786 of 2016

M/s.Sri Mahalakshmi Traders,
Rep. by its Prop.G.Saravanan,
No.27, Pudupet Main Road,
Tirupattur,
Vellore District. ... Petitioner

vs

The Checkpost Officer/
Deputy Commercial Tax Officer,
Hosur,
Dharmapuri District. ... Respondent

Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records of the respondent in his Goods Detention Notice No.8148/2015-2016 dated 21.01.2016 in Form No.041 and quash the same as illegal and direct the respondent to release the goods of RBD Palmolein Oil covered by invoice No.21, dated 20.01.2016 and detained vide Goods Detention Notice No.8148/2015-2016, dated 21.01.2016.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.Kanmani Annamalai
Additional Govt. Pleader (Taxes)

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O R D E R

By consent, this writ petition is taken up for disposal at the admission stage itself.

2.The writ petition has been filed to quash the impugned Detention notice of the respondent issued in Form No.041.

3. The petitioner would state that they are a registered dealer in Edible Oil and Turmeric Powder under the Tamil Nadu

Value Added Tax Act with TIN No.33834623819 and CST Act with Registration No.939420. The petitioner sold RBD Palmolein Oil of 19645 Kgs. to Sri Jayasakthi Rice & Oil Mills, Saminathapuram, Salem vide Invoice No.21, dated 20.01.2006. The said goods were transported from Tirupattur to Salem by Lorry bearing Registration No.TN03 K 1348.

4. The petitioner would further state that the said goods were detained by the respondent stating that they filed only the annual returns and they have not filed any monthly returns. Hence, to verify the genuineness transaction of the goods, the said vehicle was detained. Therefore, the petitioner made a representation to the respondent stating that they filed monthly returns from April to November 2015 manually and also got acknowledgment from the Assistant Commissioner, (CT) Tirupattur and they also filed monthly return through on-line for the month of December 2015 by adjusting ITC. The respondent, instead of verifying the filing of returns and payment of taxes, without jurisdiction, issued the impugned detention notice. Hence, the present writ petition has been filed.

5. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), on the other hand, would submit that since goods transported were not accompanied with valid documents, the goods were detained.

6. Heard the submissions of Mr.S.Ramanathan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

7. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to pay a sum of Rs.44,201/- towards tax and on such payment, the goods detained may be directed to be released.

8. In view of the submission so made by the learned counsel for the petitioner and also in order to give a quietus to the issue involved herein, the petitioner is directed to pay a sum of Rs.44,201/- (Rupees Forty four thousand two hundred and one) towards tax and on such payment, the respondent is directed to release the goods detained forthwith. With regard to compounding fee, if any, it is open to the petitioner to challenge the same in the manner known to law.

9. With the above directions, writ petition is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CSIV)
dt:01/02/2016

True Copy

Sub-Assistant Registrar

cla

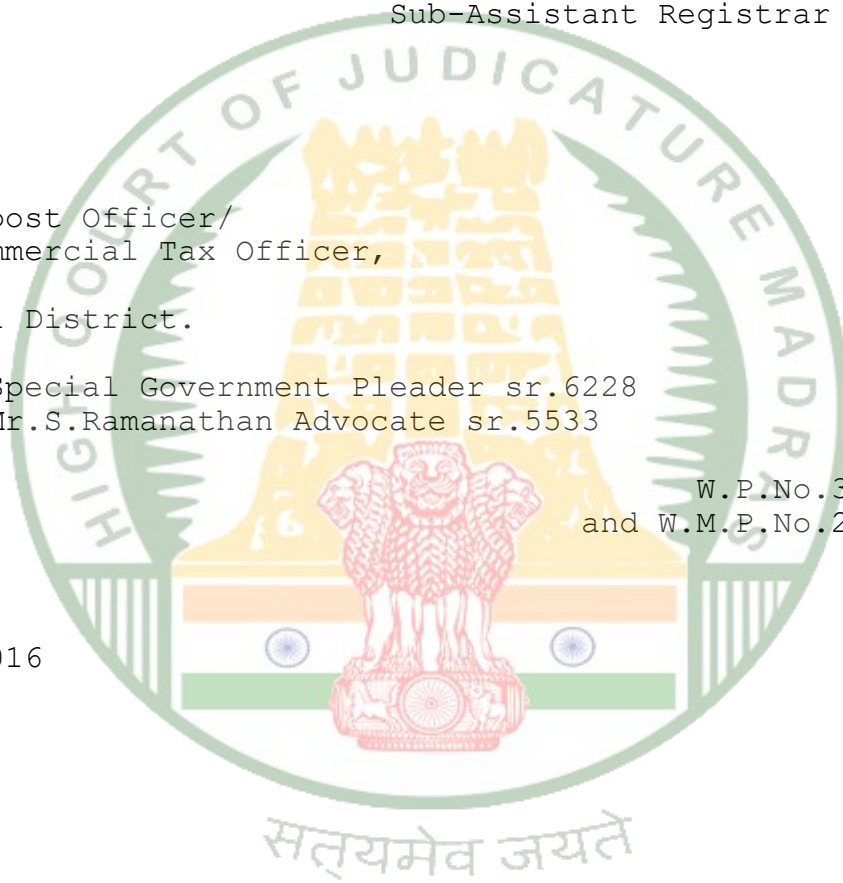
To

The Checkpost Officer/
Deputy Commercial Tax Officer,
Hosur,
Dharmapuri District.

+1 cc to Special Government Pleader sr.6228
+1 cc to Mr.S.Ramanathan Advocate sr.5533

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