

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34433 of 2016 &
WMP Nos.2958, 2959 &2960 OF 2016
29658, 29659 & 29660/16

Rahul Cables Private Limited
reg. Office, 1st Floor, East Wing
Aurora Towers, M.G.Road,
Pune, Maharashtra-411 001
rep. by its Authorised Signatory
Mr.S.Madhan .. Petitioner

vs.

1.The Commercial Tax Officer
Roving Squad III
Office of the Deputy Commissioner (CT)
Enforcement North
Commercial Taxes Building
Greams Road, Chennai 600 006.

2.The Deputy Commissioner
(Commercial Taxes)
Chennai Enforcement North
No.6, Greams Road
Chennai 600 006.

3.The Joint Commissioner
(Commercial Taxes)
Enforcement I
No.6, Greams Road
Chennai 600 006.

4.The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai- 600 005. .. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified Mandamus, to call for the records pertaining to the order in Proceedings Bearing G.D.No. 1089/RS-III/(N)/2016-2017 dated 16.09.2016, duly issued by the Commercial Tax Officer, Roving Squad -III, Office of the Deputy Commissioner

(CT), Enforcement North, Commercial Taxes Building, Greams Road, Chennai 600 006, the first respondent herein and quash the same and direct the respondents to release the vehicle bearing Registration No.TN 28 E 4901 with consignment.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.K.Venkatesh (T)
Govt. Advocate

O R D E R

Heard Mr.D.Ashok Kumar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Taxes) appearing for the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2.In this Writ Petition, the petitioner challenges the Goods Detention Notice and Compounding Notice issued by the first respondent dated 16.09.2016.

3.It is not in dispute that the petitioner has been transporting the goods for the Electricity Board, presently known as TANTRASCO. To support their contention, the petitioner has produced a certificate from TANTRASCO, signed by the Superintending Engineer, CDC II/ TANTRASCO, Guindy, Chennai dated 21.09.2016, which is to the following effect.

" Office of the Superintending
Engineer Chennai Development Circle II
Guindy, Chennai 32.

TO WHOMSOEVER IT MAY CONCERN

This is to certify that 1) The material stored at Palanjur Storage Yard (Opposite to Queens Land) is the property of TANTRASCO. 2) The material stored at the yard as per LOI No.CE/TR/SC/TR III/EE/C/A2/F.T1908/LOI 2771/D.04/16 Dt.10.02.2016 is in Rahul Cables P.Ltd., Pune-3) Rahul Cables, Pune has confirmed that they will store all the materials at Palanjur Storage Yard on behalf of TANTRASCO and the material is property of TANTRASCO,

Superintending Engineer,
CDC II/ TANTRASCO ,
Guindy, Chennai 32.

4.Thus, the above certification done by the Superintending Engineer, TANTRASCO, cannot be disbelieved and in other aspects, the transactions cannot be doubted and this finding is given, after perusing the written instructions filed by the first respondent, wherein interpretation has been given that only after the ownership will be transferred to TANTRANSO, they will become the owners of the goods. However, the certificate given by the Superintending Engineer, CDC II/ TANTRASCO, Guindy, Chennai, clearly shows that TANTRASCO is the owner of the property.

5.In the light of the above, the Writ Petition is allowed, the impugned order is set aside and the respondents are directed to forthwith release the goods along with the vehicle on production of the copy of this order.

The Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

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+lcc to the Government Pleader sr.56743
+lcc to Mr.D.Ashokkumar, Advocate Sr.56535

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srg 03/10/2016



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