IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.10.2016

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THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.35110 of 2016
and WMP.No.30257 of 2016

M/s.Mahadevan Metals,
Rep by its Proprietor,
K.Palanivel,
No.52-2/2/65C, Police Station Road,
Veeraganur, Gangavalli [Tk],
Salem-636 116. .. Petitioner

Vs

The Commercial Tax Officer [Enf],
Roving Squad,
O/o.The Assistant Commissioner [CT],
Enforcement Wing, Old Court Building,
Opp. BSNL Office, Mohanur Road,
Namakkal-637 001. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for the records of the respondent in Goods Detention Notice No.2069/16-17 dated 28.09.2016 and quash the same.

For Petitioner : Mr.S.Raveekumar
For Respondent : Mr.K.Venkatesh, GA

O R D E R

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2. This Writ Petition has been filed challenging the Goods Detention Notice No.2069/16-17 dated 28.09.2016 issued by the respondent. In the impugned notice, the goods have been detained for two reasons, namely, non-availability of Form-JJ and there is nothing to show that the petitioner has had interstate transactions during the year 2016-2017.

3. In order to afford an opportunity to the respondent to reply to the contentions raised by the petitioner, the learned Government Advocate was directed to get instruction. Accordingly, written instruction has been given by the Deputy Commercial Tax officer, [Roving Squad] Enforcement, Namakkal, wherein, about eight reasons have been set out. However, in the impugned Detention Notice, two reasons have been given. So far as non-furnishing of Form-JJ is concerned, the Commissioner of Commercial Tax has issued a Circular saying that if online Form-JJ is not available, then other records with respect to the transaction can be gone into. Therefore, only for such reason, the goods could not have been detained.

4. The second reason is that the petitioner has not reported any interstate transactions. The answer given by the petitioner is that they have been recently registered as a dealer. In the written instruction, the respondent has given other information and it appears that the allegation is that the petitioner is doing business in the name of different persons with different TIN numbers for every three or six months. If such an allegation is true, then it is

a very serious issue, wherein not only the petitioner should be implicated, but all other persons who had allowed to utilise the TIN numbers. But, this can be done only after due enquiry by the appropriate officer and those reasons cannot be germane to detain the goods.

5. For the above reasons, the Writ Petition is allowed and the impugned Goods Detention Notice No.2069/16-17 dated 28.09.2016 is quashed and the respondent is directed to release the goods forthwith as observed in the preceding paragraph. It is always open to the respondent to approach any other competent authority in the Commercial Tax Department to investigate the matter, if there is any illegality. No costs. Consequently, connected Miscellaneous Petition is closed.

06.10.2016

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Note : Issue order copy by 06.10.2016

To
The Commercial Tax Officer,
Roving Squad,
O/o.The Assistant Commissioner [CT],
Enforcement Wing, Old Court Building,
Opp. BSNL Office, Mahanur Road,
Namakkal-637 001.

T.S.SIVAGNANAM, J.
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