IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.36144 of 2016

M/s.Thirumalaivasan Transports,
Represented by its Proprietor,
No.G-28, Sriji Majestic Complex,
Omni Bus Stand Entrance,
Koyambedu,
Chennai-600 010 .. Petitioner

.Vs.

The Deputy Commercial Tax Officer,
Roving Squad,
Villupuram.
..Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, by directing the Respondent to release the vehicle bearing number TN 22 DD 7735.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr. K.Kanmani Annamalai
Addl. Government Pleader (Tax)

ORDER

With the consent of both parties, the main writ petition itself is taken up for final disposal.

2. The brief facts are as follows:-

The petitioner concern is a fleet operator and its primary business is to dispatch or transmit the materials or goods to the consignee on the instruction of the consignor of the goods. Since, the petitioner is having lien over the goods in question, it is its primary responsibility to deliver the goods in safe mode to its consignees. The petitioner's consignor viz., Chellsons Packaging Pvt. Ltd., being a registered dealer in Sivakasi were returning certain goods being PVC printed rolls

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(44 boxes) to their supplier M/s Veekay Enterprises, a registered dealer in Chennai, on the basis that the goods were defected. The goods were transmitted through the petitioner's vehicle bearing registration No.TN 22 DA 7735 by the said M/s.Chellsons Packaging Pvt Ltd., on 03.10.2016 from Sivakasi. On 04.10.2016 at around 10.00 am, the respondent detained the vehicle at Vikravandi tollgate and issued a Goods Detention Notice bearing No.1163 dated 04.10.2016. Even the Driver of the Lorry handed over the entire documents for verification. Even after perusal of the same, the respondent denied to release the Lorry. It is the case of the petitioner that even as per Section 67 of the Tamil Nadu Value Added Tax Act, the check roving squad officer is empowered to detain the goods and not the vehicle. Hence, the petitioner is before this Court with this writ petition.

3. The learned counsel appearing for the petitioner vehemently contended that the petitioner herein is a mere transporter and despite considering all the documents which were in the possession of the petitioner by the respondent, the vehicle has been detained. Such detention of the vehicle would cause great hardship to the petitioner as he is a mere transporter. If there is any violation of the provisions of the Act, the respondent authority can proceed against the consignor and consignment goods, which is detained by the authorities and the value of the goods detained is also much more than the value of the tax liability. Therefore, the respondent is wrong in unnecessarily detaining the vehicle. Therefore, the petitioner prays this Court to release the goods vehicle.

4. The learned Additional Government pleader (Tax) accepting notice for the respondent submitted that the respondent detained the goods and also issued a notice to the consignor, but till today, the consignor has not responded. So, the detention order passed by the respondent is in accordance with law and the same should be confirmed.

5. Heard the learned counsel appearing on either side and perused the documents on record.

6. Section 67 of the Tamilnadu Value Added Tax Act, 2006 deals with the procedure as to how the detained goods can be proceeded. In the present case, the petitioner is a mere transporter and it only transports the goods and also possessed all the valid documents to transport the goods from the consignor to consignee. The goods were detained by the respondent authorities and it will protect the interest of revenue as the value of the detained goods is also much more than the value of tax involved in the present case.

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7. When already interest of the respondent is well protected, it is unnecessary to detain the vehicle and the vehicle is only used for the purpose of transporting the goods. Detaining the vehicle and keeping the same in the yard and exposing the same to sun and rain will certainly cause great prejudice to the petitioner and the petitioner is only a transporter.

8. Therefore, considering the facts and circumstances of the case and in the interest of justice, especially, when the interest of respondent is protected and also the respondent can proceed against the consignor, the respondent is directed to release the vehicle bearing Regn.No.TN 22 DA 7735. It is also made clear that it is for the respondent to proceed against the goods, which is detained under the custody.

9.With this observation, the writ petition is disposed of. However, there is no order as to costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

jbm

To

The Deputy Commercial Tax Officer,
Roving Squad,
Villupuram.

+1 cc to Mr.Adithya Reddy Advocate sr 58251
+1 cc to Special Government Pleader (Tax) vide sr 58256

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