IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.37759 of 2016
&
W.M.P.No.32363 of 2016

M/s Indian Commerce & Industries Co.P.Ltd
rep. by its Authorised Signatory
Mr.G.S.Santhanagopalan ... Petitioner

..Vs..

1. The Deputy Commercial Tax Officer
Kandamangalam Check Post
Lingareddypalayam.

2. The Joint Commissioner (CT)
Vellore Division, Vellore.

3. The Assistant Commissioner (CT)
Mannady Assessment Circle
Chennai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in GOODS DETENTION NOTICE No.3716 dated 20.10.2016, quash th same and further direct the first respondent to release the goods unconditionally without any condition.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondents. By consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner has come forward with this Writ Petition challenging the Goods Detention Notice.

3.The Check Post Officer, who is present in Court has produced the Original Files. The reason for detention of goods are two fold. Firstly, the Invoice Number mentioned in Form LL, does not tally with the original invoice. Secondly, it is submitted that the consignment sought to be delivered is being delivered at M.R.F.Limited, Puducherry.

4.So far as the first objection is concerned, the Court has verified the Original Invoice, which shows the Invoice Number as 16-17 TO 764 dated 19.10.2016. In Form LL, the Invoice Number is mentioned as 17 TO 764. Merely because the omission of the numerical '16' in Form LL cannot be a ground to suspect the transaction. Therefore, the first contention raised by the Check Post Officer is rejected.

5.The second contention is that the consignments were delivered at MRF Limited, Puducherry, also cannot be a ground for detaining the goods, since invoice has been raised in the name of 'Site Representative, Indian Commerce & Industries Co. P.Ltd., C/o MRF Ltd., Eripakkam, Nettapakkam Commune, Puducherry. Thus, the petitioner's case is that they are carrying on works contract for M/s MRF Ltd., Puducherry, the transaction is consignment sale and the goods were received by the 'Site Representative' of the petitioner and that has been ultimately mentioned in the Invoice. The Court on verification found that the Invoice has been raised in the name of 'Site Representative' of the petitioner and therefore, the second ground for detention of goods is also not sustainable.

6.Hence, for all the above reasons, the Writ Petition is allowed, the impugned order is set aside and the goods as well as the vehicle are directed to be forthwith released. No costs. Consequently,connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Deputy Commercial Tax Officer
   Kandamangalam Check Post
   Lingareddypalayam.

2. The Joint Commissioner (CT)
   Vellore Division, Vellore.

3. The Assistant Commissioner (CT)
   Mannady Assessment Circle
   Chennai.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.63424
+1cc to the Special Government Pleader(T), S.R.No.63516

W.P.No.37759 of 2016

RSK(CO)
CA(07/11/2016)