IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

CORAM:

THE HON 'BLE MR. JUSTICE B.RAJENDRAN

Writ Petition Nos.39572 & 39573 of 2016

& W.M.P.Nos.33857 to 33860 of 2016

Mr. Kamali Traders,
Represented by its Proprietor, T.Krishnamurthy,
No.208 Mint Street,
Chennai - 600 003 ... Petitioner in both W.Ps.

Versus

The Commercial Tax Officer,
Roving Squard I, Enforcement (North),
Chennai - 6 .. Respondent in both W.Ps.

Prayer:- Petitions filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorari to call for the records of the respondent in G.D.Nos.148 and 149/2016-17, both dated 06.11.2016 and to quash the same.

For Petitioner in both W.Ps. : Mr. S.Raveekumar
For Respondent in both W.Ps.: Mr. S.Kanmani Annamalai, Spl.G.P., (Taxes)

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C O M M O N O R D E R

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Special Government Pleader for respondents, in both the writ petitions. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal.



2. The petitioner has filed the above Writ Petitions for the issuance of a writ of Certiorari to call for the records of the respondent in G.D.Nos.148 and 149/2016-17, both dated 06.11.2016 and to quash the same.

3. According to the petitioner, it is a Firm engaged in the business of purchase and sale of pulses, which fall under Schedule IV of the Tamil Nadu Value Added Tax Act, 2006, and is exempt from tax upto 500 crores. Further, they did not manufacture or sell or trade any taxable goods. According to the petitioner, while the goods were being transported to the place of the petitioner in two vehicles from the place of their vendor, the respondent intercepted the vehicles on

06.11.2016, vide G.D.No.147 and 148/2016 stating that on verification of the bills, the consignment transported from Sowcarpet to Kaladipet has been moved and unloaded at Concor. But, whereas, the goods were moved from the cold storage of the vendor at Madhavaram to the premises of the petitioner at Ennore Express High Road, Tolgate, Chennai - 600 019. According to the petitioner, such a detention is illegal and hence, challenged the orders of detention, by way of these writ petitions.

4. Mr.S.Kanmani Annamalai, learned Special Government Pleader, who accepts notice for the respondent, submitted that the goods, as described by the petitioner in the Invoice, as 'Black Mapte Sq', is an exempted one, but apprehending that some other goods are being transported, the respondent has intercepted and detained the vehicles in question.

5.On a perusal of the materials available on record, it is clear that the petitioner Firm has not violated any provisions as contemplated under Section 67 of the TNVAT Act, as alleged by the respondent, in the Goods Detention Notices, for the reason that the goods being detained is accompanied with proper invoice bills and also transport documents. Further, mere apprehension on the part of the respondent cannot be a reason to detain the goods, especially when the petitioner is able to establish through records that it is an exempted goods.

6. In these circumstances, this Court is of the view that the impugned orders are liable to be set-aside. Accordingly, the impugned orders, dated 06.11.2016 are set aside. The respondent, in both these writ petitions, is directed to release the vehicles / goods, forthwith, on production of a copy of this order.

7. With these observations, the Writ Petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III )



/true copy/

Sub Asst. Registrar

To
The Commercial Tax Officer,
Roving Squard I, Enforcement (North),Chennai - 6

+1 cc Spl.G.P, sr.65176
+1 cc to M/s.S.Raveekumar,advocate,sr.65172

krd 14/11