IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

CORAM:

THE HON 'BLE MR. JUSTICE B.RAJENDRAN

Writ Petition Nos.39577 to 39580 of 2016

M/s. J.B.A.Steels Pvt. Ltd.,
Rep. By its Director, V.Vaigunthan,
S/o. Venkatarayalu,
No.56 D Mogulpura Street,
Thiruvannamalai 606 601 ... Petitioner in all W.Ps.

Versus

The Deputy Commercial Tax Officer,
Enforcement Wing, Roving Squard,
Hosur, Salem Division ... Respondent in all W.Ps.

Prayer:- Petitions filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Goods Detention Notice Nos.00011605/16-17, dated 11.09.2016; 00011604/16-17, dated 09.11.2016 (wrongly mentioned as 11.09.2016); 00011603/16-17, dated 09.11.2016 (wrongly mentioned as 11.09.2016); 00011602/16-17, dated 09.11.2016, respectively, on the file of the respondent herein, quash the same, as being without jurisdiction and authority of law and consequently, to direct the respondent to release the detained goods forthwith.

For Petitioner in all W.Ps. : Mr. C.Munusamy

For Respondent in all W.Ps. : Mr. S.Kanmani Annamalai,
Special Government Pleader (T)

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C O M M O N O R D E R

Heard Mr.C.Munusamy, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Special Government Pleader for respondent, in the above 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-fied Mandamus, to call for the records relating to the Goods Detention Notice

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Nos.00011605/16-17, dated 11.09.2016; 00011604/16-17, dated 09.11.2016 (wrongly mentioned as 11.09.2016); 00011603/16-17, dated 09.11.2016 (wrongly mentioned as 11.09.2016); 00011602/16-17, dated 09.11.2016, respectively, on the file of the respondent herein, quash the same, as being without jurisdiction and authority of law and consequently, to direct the respondent to release the detained goods forthwith.

3. The facts, which are necessary for the disposal of the above writ petition, are as follows:-

The consignments were transported through the vehicles with all the relevant documents, such as CST, E-way bill, issued by the Department of Commercial Taxes, Government of Karnataka. The consignments would reach its destination via., Kuppam - Krishnagiri - Hosur - Bangalore. The vehicles, which carries the consignments, reached the check-post at Hosur, on 09.11.2016, at about 10.00 pm, whereupon, the respondent has detained the goods on the ground that the goods were not transported with transit passes. The drivers of the vehicles explained the situation by stating that the transit passes were not generated at the Commercial Tax Office at Hosur. Despite that, the respondent did not release the vehicles and passed the impugned orders. Challenging the same, the petitioner has approached this Court by way of these writ petitions.

4. The learned Special Government Pleader appearing for the respondent, at the outset, submitted that the impugned orders are only notices and the sales are inter-state sales, therefore, the petitioner ought to have consigned the vehicles with transit passes, but, admittedly, the petitioner has moved the vehicles without transit passes. Whereas, the learned counsel for the petitioner would submit that the transit passes were not generated from the Office Website of the Department. But, according to the learned Special Government Pleader, even at the time of detention / when particulars are collected by the authorities at the check-post point, if necessary particulars are given by the petitioner, the respondent would have provided with transit passes, but even that was not done by the petitioner.

5. It is stated by the learned counsel for the petitioner that relevant documents, such as CST, E-way bill, issued by the Department of Commercial Taxes, Government of Karnataka were already produced by the petitioner, along with necessary papers at the check-post itself, but, inspite of the same, the respondent has detained the goods. In reply to the said submission, the learned Special Government Pleader submitted that, if the documents, as stated by the petitioner, have been produced by the petitioner, the respondent would have definitely verified the authenticity and particulars of the documents and if found to be genuine, the vehicles would have

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been released. According to his instructions, no documents have been produced by the petitioner for the release of the vehicles, therefore, the vehicles were not released. The learned Special Government Pleader further submitted that even now if the petitioner produces necessary documents like Form III of the dealer, transit passes, etc., including Form JJ, the respondent would consider the same, in accordance with law, and if the documents are found to be genuine, appropriate orders would be passed, for the release of the vehicles, forthwith.

6. Be that as it may, considering the peculiar facts and circumstances of the case and taking into consideration the said submissions made by the learned counsel for both sides, the petitioner is hereby directed to produce necessary particulars / documents like Form III of the dealer, transit pass, etc., including Form JJ, to the respondent, forthwith, and on receipt of the said documents, the respondent is directed to consider the same, in accordance with law, and if the documents are found to be genuine, the respondent shall pass appropriate orders, for the release of the vehicles, on that day itself.

7. Accordingly, the writ petitions stand disposed of. No costs.

srk 11.11.2016

This matter having been listed on Friday, the 18th day of November 2016, for being mentioned in pursuance of the order of the Court dated 11.11.2016 and made herein, in the presence of Mr.C.Munusamy, Advocate for the Petitioner and of Mr.Kanmani Annamalai, Special Government Pleader (Taxes), on behalf of the Respondents in all Writ Petitions, the Court made the following order:-

These matters have been listed today under the caption "for being mentioned".

2. The learned Special Government Pleader(T) appearing for the Respondent would submit that Form JJ, is not required to release the vehicles and Form LL is required to release the same.

3. Considering the submission made by the learned Special Government Pleader (T) appearing for the Respondent, the Petitioner is directed to produce the relevant documents along with Form LL instead of Form JJ to the Respondent, and on receipt of the said documents, the Respondent is directed to release the vehicle on the same day.

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4. Registry is directed to issue fresh order copy to the parties concerned.

sri 18.11.2016

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Enforcement Wing, Roving Squard,
Hosur, Salem Division.

+4cc's to M/s.C.Munusamy, Advocate, S.R.Nos.66857
+1cc to the Special Government Pleader(T), S.R.No.65177

W.P.Nos.39577 to 39580 of 2016

CA(14/11/2016)

PPA(CO)
CA(24.11.2016)

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