IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.4313 of 2016 and
W.M.P.Nos.3655 & 3656 of 2016

M/s.Ritco Logistics (P) Ltd.,
rep by its Manager,
No.31, Transport Centre, New Rohtak Road,
Punjabi Bagh,
Delhi - 110 035. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Pattanur Check Post @ Morattandi,
Villupuram District. ... Respondent

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 respondent in his Goods Detention Notice in G.D.R.No.2752/15-16, quash the Goods Detention Notice dated 25.01.2016 issued therein and further direct the respondent to release the goods consignment detained under theGoods detention Notice in G.D.R.No.2752/15-16 dated 25.01.2016 without insisting on payment of any tax or compounding fee

For Petitioner : Mr.P.V.Sudakar
For Respondent : Mr.Manoharan Sundaram,
Additional Government Pleader

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the respondent in Goods Detention Notice in G.D.R.No.2752/15-16 and to quash the Goods Detention Notice dated 25.01.2016 issued therein and further direct the respondent to release the goods consignment detained under the G.D.R.No.2752/15-16 dated 25.01.2016 without insisting on payment of any tax or compounding fee.

2.It is the case of the petitioner that the respondent is wrong in detaining the goods for the technical reason that the petitioner has not generated and submitted the E-Transit pass. Further, the petitioner contended that the goods consignment have been accompanied with proper documents like Excise

Invoice, Lorry Receipt etc. The goods vehicle entered into the State of Tamil Nadu through the first check post at Puzhal where necessary entries were made in the movement register and it is the said Check Post Officer at Puzhal who refused to issue a transit pass stating that the E-Transit Pass has to be electronically generated and no manual transit pass would be issued.

3.The respondent contended that there is violation of Section 72(1)(a) of the TNVAT Act warranting payment of tax and compounding fee.

4.According to the petitioner, in holding so, the respondent has failed to see that Section 72 (1)(a) of the Act comes into application only if there is an attempt to evade or evasion of any tax payable under the TNVAT Act.

5.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that the petitioner may be directed to pay the one time tax amount of Rs.1,15,010/- to the respondent without prejudice to their contention to be raised in the revision to be filed before the appropriate authority and in the event of the payment of the one time tax of Rs.1,15,010/-, the respondent may be directed to return the consignment to the petitioner.

6.Having regard to the submissions made by the learned counsel on either side, taking into consideration the fact that the petitioner has got right of revision before the appropriate authority without prejudice to their contention in the said revision, the petitioner is directed to pay the one time tax of Rs.1,15,010/- (Rupees one lakh fifteen thousand and ten only) to the respondent and get the goods consignment released. On payment of the one time tax, the respondent is directed to release the goods consignment detained under the Goods Detention Notice dated 25.01.2016. It is made clear that the petitioner is making the one time tax payment of Rs.1,15,010/- without prejudice to their contentions to be raised in the revision.

7.With this observation, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer,
Pattanur Check Post @ Morattandi,
Villupuram District.

+ 1 cc to Mr.P.V. Sudakar, Advocate SR.7286

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BVR(CO)
Eu 4.2.16