IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.6732 of 2016

Tvl. Redlands Machinery Pvt Ltd
Rep. by its Authorised Signatory
C. Krishnadas
No.1/331 Guruvayur Nagar
Malumichampatti
Coimbatore-641 021 .. Petitioner

v.

1 The Deputy Commercial Tax Officer
Checkpost Officer, Pitchanur
Coimbatore-641 105

2 The Assistant Commissioner (CT)
Podanur Assessment Circle
Coimbatore- 18 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to release the consignment with lorry detained on 20.02.2016 pursuant to his notice in GDR No.J280/2015-16/OR. No.33575, dated 20.2.2016 immediately.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.Manoharan Sundaram
Addl. Govt. Pleader

ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus, directing the first respondent to release the consignment with lorry detained on 20.02.2016 pursuant to his notice dated 20.2.2016 immediately.

2. According to the petitioner, the first respondent has got no jurisdiction or authority to detain the consignment when the goods are accompanied with valid documents in accordance with section 67(5) of the Tamil Nadu Value Added Tax Act, 2006. Further, the first respondent, even without conducting an enquiry about the genuineness of the certificates, had detained the vehicle and the consignment.

3. Mr.R.Senniappan, learned counsel appearing for the petitioner submitted that representative of the petitioner, viz., C. Krishnadas, was also physically assaulted by the ***first** respondent at the time of detaining the goods.

4. Though the petitioner has not stated anything in the affidavit filed in support of the petition, if the allegation made by the learned counsel for the petitioner is found to be true, in that case, appropriate action should be taken as against the ***first** respondent for physically assaulting the representative of the petitioner, viz., C. Krishnadas.

5. On a perusal of the impugned notice dated ***20.02.2016** it is clear that the notice cannot be sustained and the same is liable to be set aside.

6. Mr.Manoharan Sundaram, learned Additional Government Pleader takes notice for the respondents and submitted that impugned notice passed by the first respondent is liable to be set aside and the consignment with the lorry may be released to the petitioner.

7. Having regard to the submissions made by the learned counsel on either side, the impugned notice dated ***20.02.2016** is set aside and the first respondent is directed to release the consignment with the lorry , which was detained on ***20.02.2016**, forthwith, on production of a copy of this order. Since the vehicle and the goods were detained on flimsy ground without following the procedures contemplated under the Act, The Principal ***Secretary and Commissioner of Commercial Taxes**, Chennai, is directed to give necessary instructions to his subordinates to prevent such happenings in the future.

With these observations, the writ petition is disposed of . No costs.

Rj

s/d-
Assistant Registrar(CS-III)

Corrections carried out in Para '3'and '4' '5'and '7' as per order of this court dated 26.02.2016 and made in WP 6732/2016 by MDJ.
Sd/-
Assistant Registrar(CS III)
29.02.2016

True Copy

Sub-Assistant Registrar

To

1 The Principal ***Secretary and** Commissioner of
***Commercial Taxes**,
Chennai.

2 The Deputy Commercial Tax Officer
Checkpost Officer, Pitchanur
Coimbatore-641 105

3 The Assistant Commissioner (CT)
Podanur Assessment Circle Coimbatore- 18

To be substituted to the order already despatched on 24.02.2016.

+ 1 cc to Mr.R.Senniappan, Advocate SR ***12290**

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 11646

svi(co)
prk24/2
kra 01.03.2016

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