IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.Nos.8591, 8592 and 8593 of 2016
and
WMP Nos.7639, 7640 and 7641 of 2016

M/s Crimson Metal Engineering Company Limited,
represented by its Manger - Taxation and its
Authorised Signatory,
V. Paneer Selvam,
No.163/1, K Sons Complex, II floor,
Prakasam Road,
Chennai-600 108 and
Factory at Sedarpet Industrial Estate,
Mailam Road,
Pondicherry-605111 ... Petitioner in all the writ petitions

vs

1. The Deputy Commercial Tax Officer,
   Special Roving Squad,
   Enforcement, Cuddalore.

2. The Assistant Commissioner (CT),
   Loansquare Assessment Circle,
   Wavoo Mansion,
   48/39, Rajaji Salai,
   Chennai - 600 001 .... Respondents in all the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue Writs of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in G.D.Nos.1655/2015-2016;(in respect of WP No.8591 of 2016); 1656/2015-2016 (in respect of WP No.8592 of 2016) and 1657/2015-2016 (in respect of WP No.8593 of 2016) dated 02.03.2016 and quash the same and further direct the first respondent to release the detained consignment of HRCS Coil without insisting on one time tax and three times tax as compounding fees.

For petitioner : Mr.P. Rajkumar
For respondents : Mr.S. Kanmani Annamalai
AGP (T)

COMMON ORDER

The petitioner has filed the above writ petitions to issue Writs of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in G.D.Nos.1655/2015-2016; (in respect of WP No.8591 of 2016); 1656/2015-2016 (in respect of WP No.8592 of 2016) and 1657/2015-2016 (in respect of WP No.8593 of 2016) dated 02.03.2016 to quash the same and further direct the first respondent to release the detained consignment of HRCS Coll without insisting on one time tax and three times tax as compounding fees.

2. According to the petitioner, when the goods are accompanied by the original tax invoices and the transport documents and so far the reason that the e-transit pass were not taken when the goods moved, cannot be the reason to assume that the petitioner has committed an offence as contemplated under the provisions of the TNVAT Act. The petitioner further contended that before the supplier generated the e-transit on 01.03.2016 around 11.00 a.m, the lorry drivers of the goods vehciles, bearing Nos.TN 32V 8872, TN 32M 9236 and TN 32Q 1548 moved the goods towards Pondicherry on the midnight of 29.02.2016 itself and therefore, when the goods vehicles were moved towards Pondicherry, the transit pass for the goods were not available with the drivers of the goods vehicles, but that does not mean that the petitioner has violated the proviisons of TNVAT Act or has effected sales or attempt to effect local sales in order to demand tax and compounding fees.

3. The learned counsel for the petitioner submitted that since the goods were detained pursuant to the impugned orders, the petitioner is put to hardship and prejudice.

4. Mr.S. Kanmani Annamalai, learned Additional Government Pleader, taking notice for the respondents, submitted that the petitioner may be directed to pay the one time tax amount of Rs.27,029/-, Rs.26,660/- and Rs.26,570/- before the second respondent and on payment of one time tax, the respondents may be directed to release the goods and vehicles.

5. Having regard to the submissions made by the learned counsel on either side, the impugned orders passed by the first respondent dated 02.03.2016 are set aside and the matters are remanded back to the first respondent for fresh consideration. The petitioner shall produce all the documents before the first respondent and the first respondent is directed to adjudicate

the matter after production of all the documents by the petitioner and also after affording due opportunity to the petitoner.

6. With regard of the release of vehicles and goods, the petitioner is directed to pay the one time tax amount of Rs.27,029/-, (Rupees twenty seven thousand twenty nine only) (in respect of WP No.8591 of 2016); Rs.26,660/- (Rupees twenty six thousand six hundred sixty only) (in respect of WP No.8592 of 2016); and Rs.26,570/-(Rupees twenty six thousand five hundred seventy only) (in respect of WP No.8593 of 2016) before the second respondent and on such payment, the first respondent is directed to release the vehicles and goods forthwith. With these observations, all the writ petitions are disposed of. No costs. Consequently, connected Mps are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
1. The Deputy Commercial Tax Officer,
Special Roving Squad,
Enforcement, Cuddalore.

2. The Assistant Commissioner (CT),
Loansquare Assessment Circle,
Wavoo Mansion,
48/39, Rajaji Salai,
Chennai - 600 001

+1 cc to Mr.P.Rajkumar Advocate sr.14631
+1 cc to Special Government Pleader Tax Advocate
sr.14828/16

W.P.Nos.8591 to 8593/2016

aa08/03/2016