IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.908 of 2016
and W.P.M.P.No.694 AND 695 of 2016

M/s.Shree Said Traders,
Rep. by its Manager - M.Vinoth Kumar,
No.72, Gandhi Nagar Main Road,
Karur - 639 001,
Karur District. ... Petitioner

Vs.

1. The Assistant Commissioner (CT),
Karur (South) Assessment Circle,
Karur, Karur District.

2. The Commercial Tax Officer (Enf.)
Roving Squad,
Salem, Salem District. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari calling for the records on the file of the second respondent in his impugned proceedings in GOODS DETENTION NOTICE No.134/2015-2016 dated 28.12.2015 and the consequential Corrected Notice dated 29.12.2015 quash the same as illegal and against the provisions of the Act.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.S.Manoharan Sundaram,
Additional Government Pleader

ORDER

Heard the learned counsel for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader, who took notice for the respondents and with their consent, the main writ petition itself is taken up for disposal.

2. The writ petition is filed challenging the GOODS DETENTION NOTICE No.134/2015-2016 dated 28.12.2015 issued by the second respondent and the consequential Corrected Notice dated 29.12.2015.

3. According to the petitioner, they placed indent with M/s.S.M.Perfumsers Private Limited, Bangalore, for the supply of Pan Masala and got the supply duly covered by valid documents, including E-Sugam Form issued by the Commercial Taxes Department, Government of Karnataka. But the second respondent, without considering the documents, issued the Good Detention Notice dated 28.12.2015 followed by corrected Notice dated 29.12.2015.

4. In the Notice dated 29.12.2015, it is alleged that on the evening of 28.12.2015 at about 6.00 p.m., Vehicle Check were conducted by the Deputy Commissioner (CT) Enforcement, Salem, along with the officials, at Palakode near Puliyur and when they gave indication to stop the vehicle, the Driver of the vehicle bearing Registartion No.KA 53 B 8136, in which, the goods were transported, did not stop the vehicle leading to chasing of the same by the officials and unearthing of transportation of 90 bundles of Santhi Panmasala. It is also alleged that the verification of e-sugam forms revealed that all the forms issued by the Karnataka VAT Department are time-barred, as the same are valid only for 3 days and thereby, the consignment was detained by the impugned orders.

5. The learned counsel for the petitioner submitted that the goods transported are covered by valid documents and not prohibited items and therefore, the detention of goods is wholly illegal. It is also submitted that the second respondent has not even quantified the tax and penalty to be levied on the petitioner.

6. The learned Additional Government Pleader submitted that the goods transported are prohibited items and the Driver of the vehicle did not stop the vehicle, when the officials gave

indication to stop the same leading to detention of goods and hence, this writ petition deserves to be dismissed.

7. This Court is of the considered view that if the claim of the learned counsel for the petitioner that the goods transported are covered by valid documents and not prohibited items, then the petitioner is entitled to release of goods of payment of necessary taxes. Accordingly, the respondents are directed to quantify the tax, in consultation with the Assessing Authority of the territorial jurisdiction, and direct the petitioner to pay the tax so quantified and release the goods forthwith, upon payment of the actual taxes to be paid by the petitioner.

8. However, it is made clear that by any of the Government Orders, if the goods transported are declared to be prohibited items, it is open to the authorities concerned to take appropriate action in the manner known to law.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

gg Sub Assistant Registrar

To

1. The Assistant Commissioner (CT),
Karur (South) Assessment Circle,
Karur, Karur District.

2. The Commercial Tax Officer (Enforcement)
Roving Squad,
Salem, Salem District.

+1cc to Ms.R.Hemalatha, Advocate, S.R.No.1485
+1cc to the Special Government Pleader(Taxes), S.R.No.1909

W.P.No.908 of 2016

SKV(CO)
CA(11/01/2016)