IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.9245 of 2016
and W.M.P.No.8219 of 2016

M/s.Techno Therm Industries,
rep by its Partner,
183/1A, Orattikuppai Village,
Chettipalayam Taluk, Coimbatore. ... Petitioner

Vs.

The Check Post Officer,
Deputy Commercial Tax Officer,
Thoppur (Inward),
Kurinji Nagar, Dharmapuri 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 proceedings in G.D.R.No.3634/2015-16 dated 04.03.2016 and to quash the goods detention proceedings as illegal and contrary to the provision of TNVAT Act, 2006 and to forthwith direct the respondent to release the goods in his possession.

For Petitioner : Mr.A.Ravichandran

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Tax)

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 proceedings dated 04.03.2016 and to quash the goods detention proceedings and to forthwith direct the respondent to release the goods in his possession.

2.According to the petitioner, it is a Firm engaged in the operation of Common Bio Medical Waste Treatment Facility, which includes collection and destruction of bio medical waste generated from Hospitals in and around Coimbatore and Tiruppur. Further, according to the petitioner, they did not manufacture or sell or trade any taxable goods, but only carry on operation of purchasing and installing incinerator and allied pollution control equipments for disposal of medical waste which require spare/total replacement of new machinery every three years.

3.According to the petitioner, the goods that were detained by the respondent has already suffered tax at the point of sale from the petitioner's seller where an amount of Rs.3,00,000/- at the rate of 5% on the total sale value of Rs.60,00,000/- has already been paid by the petitioner towards purchase of goods and which tax payment is also disclosed in the invoice being accompanied with the goods being detained.

4.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that since the goods are exempted goods, the impugned order can be set aside and the respondent may be directed to release the goods.

5.On a perusal of the materials available on record, it is clear that the petitioner Firm has not violated any provisions as contemplated under Section 67 of the TNVAT Act as alleged by the respondent in the Goods Detention Notice for the reason that the goods being detained is accompanied with proper invoice bill and also transport documents.

6.The learned counsel for the petitioner submitted that the petitioner is undertaking to get themselves registered under the TNVAT Act.

7.In these circumstances, I am of the view that the impugned order is liable to be set aside. Accordingly, the impugned order dated 04.03.2016 is set aside. The respondent is directed to release the goods forthwith on production of a copy of this order.

8.With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Check Post Officer,
Deputy Commercial Tax Officer,
Thoppur (Inward),
Kurinji Nagar, Dharmapuri District.

+1 cc to M/s.A.Ravichandran, Advocate, sr.15618

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