IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.9527 of 2017
and
W.M.P.No.10460 of 2017

M/s. Johnson Controls-Hitachi Home and
Life Solutions (India) Ltd.,
Rep by its Power of Attorney,
Mr.K.S.Murugan,
Tulsi Apartments, No.47, IInd Main Road,
Raja Annamalai Puram, Chennai – 600 028. ....Petitioner

Vs.

1. The Commercial Tax Officer,
   Roving Squad – II,
   Enforcement (Central)
   Chennai 600 006.

2. The Assistant Commissioner (CT)
   Alwarpet Assessment Circle,
   No.46, Greenways Road,
   Chennai 600 028.

3. The Deputy Commissioner (CT)
   Enforcement (Central)
   PAPJM Building,
   Greams Road, Chennai 600 006. ....Respondents

Prayer:

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in G.D.No.601/RS -II/C/2017-2018 dated 5.4.2017 and quash the same and further direct the first respondent to release the detained consignment of air conditioners without insisting on one time tax and two times tax as compounding fees.

For Petitioner ... Mr.P.Rajkumar

For Respondents .. Mr. K. Venkatesh,
Government Advocate

ORDER

The petitioner is aggrieved against the Goods Detention Notice dated 05.04.2017. The first respondent detained the subject matter goods and issued the impugned detention notice on the reason that the driver of the vehicle produced old dated Invoice No.1606187 dated 28.03.2017 and that the vehicle contained lesser number of units, when the invoice referred to the number of unit as 38. Thus, it is the contention of the 1st respondent that the materials available in the vehicle did not match with the invoice.

2. The case of the petitioner is that the purchaser, namely U.M.Associates, situated at No.168, CSL Building, First Floor, Evening Bazaar, Park Town, Chennai 600 003, placed orders for supply of 38 units of air conditioners and out of the total number of 38, 14 numbers were delivered first, in the morning on 05.04.2017 and the remaining 24 numbers were sought to be delivered on the same day in the evening, at the request of the purchaser, in view of the space constraint in the warehouse of the buyer as well as on the fact that the warehouse is situated in a small lane where a big vehicle cannot enter. Therefore, it is contended by the petitioner that the first respondent has erred in coming to the conclusion as though there are some discrepancies in the total number of goods. The learned counsel for the petitioner also submitted that the first respondent has

wrongly noted the order number referred to in the invoice as the Invoice number and stated wrongly the same as one of the reason for detention. It is also stated by the learned counsel for the petitioner that the tax involved in these transactions was already paid by the petitioner.

3. The respondents 1 and 3 filed a separate counter affidavit. It is their contention that the number of units available in the vehicle varied with the number of units referred to in the invoice. It is also stated by the third respondent that she has not insisted the petitioner to pay any Advance Tax of Rs.50,00,000/- for the release of the goods.

4. Heard both sides.

5. The impugned goods detention notice was issued by the first respondent by citing the reasons as discussed *supra*. While considering the first reason, namely, the alleged wrong furnishing of old invoice number, I am of the view that the first respondent has erroneously taken the order number as Invoice Number, when such factual aspect is evidently available on the face of the invoice itself. Therefore, the first reason, which is factually wrong, has to go. While coming to the next reason with regard to the alleged discrepancies in the number of units of air conditioners is concerned, it is seen from the Invoice No.1606187 dated 28.03.2017 that 14 numbers of air conditioners were already delivered by the petitioners on 05.04.2017 itself and the remaining 24 numbers alone are

sought to be delivered to the purchaser on the very same day evening. The acknowledgement of receipt of 14 units by the buyer is evidently available in

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jv

the invoice itself. The letters addressed by the purchaser to the petitioner dated 29.03.2017 and 05.04.2017 would further strengthen the case of the petitioner that the total number of units were intended to be supplied in two spells on the same day. Therefore, I find that the reasoning of the first respondent is factually incorrect as could be seen on the face of the Invoice itself. Therefore, I find that the first respondent is not justified in detaining the goods based on the above sated reasons.

6. Accordingly, the Writ Petition is allowed and impugned goods detention notice is set aside. Consequently, the first respondent is directed to release the goods forthwith. No costs. Consequently, the connected miscellaneous petition is closed.

24.4.2017

Speaking Order/ Non Speaking Order
Index: Yes/ No
Note: Issue order copy today (24.04.2017)
jv/msvm

To
1. The Commercial Tax Officer,
   Roving Squad – II, Enforcement (Central), Chennai 600 006.

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