

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.4734 of 2017
and W.M.P.No.4957 of 2017

Tvl.Jandu Steel Industries
Rep. by its Partner Mr.Jagatar singh
491, M.K.N. Road, Alandur
Chennai-16.

... Petitioner

vs.

The Commercial Tax Officer
Roving Squad, (Enf) (East)
Greams road, Chennai-6.

... Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari calling for the records on the files of the respondent in G.D.No.12019/2016-17 dated 22.02.2017 and quash the same being illegal, invalid, without authority of law and violated the principles of natural justice and contrary to law.

For Petitioner : Mr.D.Vijayakumar

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

ORDER

1.Issue notice. Mr.Annamalai, accepts notice on behalf of the respondent.

1.1 With the consent of counsels for the parties, the writ petition is taken up for hearing and final disposal.

2.By virtue of instant writ petition, challenge is laid to the Goods Detention notice, dated 22.02.2017.

2.1. The reason for detaining the subject goods, which is a shearing machine (with 15 HP Motor), as reflected in the impugned notice, is as follows:

“During the course of vehicle check @ Kallikuppam one vehicle carrying machinery vehicle No.TN 22 AM 7997 moving from Vazhudalambedu to Anna nagar East by manual from JJ. The consignee was unregistered dealer and also consignment moves to Ennore. Hence the goods was detained for genuineness of verification along with vehicle and kept at Manjambakkam Yard.”

2.2. The record shows that qua the subject goods, a purchase order was raised upon the petitioner by an entity, known as Montero Steels, having its office at New Old Door No.201/D, Block 15/39, Anna nagar, Chennai-102.

2.3 It is stated that, the said entity i.e., Montero Steels had, in turn, entered into a job work contract with Hinduja Foundries Limited, located in Ennore, Chennai-57.

3. The petitioner, therefore, claims that, at the say so of Montero Steels, the subject goods were being moved from its premises, located at

Vazhudalambedu, Ennore, to the premises of Hinduja Foundries Limited.

3.1 It is, thus, stated that the transaction was genuine and, therefore, the subject goods ought not to have been intercepted and thereafter detained by the respondent.

3.2 Furthermore, counsel for the petitioner says that, in any event, to expedite the release of the subject goods, the petitioner would be willing to pay one time tax, as may be determined by the respondent, albeit, without prejudice to its rights and contentions.

4. Mr.Annamalai, on the other hand, says that, the consignee i.e., Montero Steels, is an unregistered dealer and that, movement of goods to a third party created suspicion and therefore, the subject goods were intercepted, while in transit.

5. I have heard the counsels for the parties and perused the records.

6. According to me, the merits of the claim and counter claim can be tested before the concerned assessing officer. The petitioner, for the moment, seeks a limited relief, which is the release of the subject goods, upon payment of one time tax.

6.1 Accordingly, the respondent is directed to release forthwith, the goods, upon payment of one time tax, as may be determined in the instant case by the respondent and communicated to the petitioner.

RAJIV SHAKDHER,J.

7. It is made clear that, the payment of one time tax by the petitioner will not cause an impediment, if, a challenge is laid qua the tax imposed and/or the compounding fee, that may be levied in the matter.

8. Needless to say, the aforesaid exercise will be completed by the respondent at the earliest. The tax sought to be imposed will be determined and communicated to the petitioner, no later than two (2) days from the date of receipt of a copy of this order.

8.1 The detained goods, as indicated above, will be released, immediately, upon receipt of tax so determined by the respondent.

9. The writ petition is, accordingly, disposed of. Resultantly, the connected pending application is also closed. There shall, however, be no order as to costs.

24.02.2017

Index:Yes/No

kj

Note:Registry to issue order copy on 24.02.2017

To

The Commercial Tax Officer
Roving Squad, (Enf) (East)
Greens road, Chennai-6.

W.P.No.4734 of 2017
and W.M.P.No.4957 of 2017