IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.05.2017

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.12608 of 2017 &
W.M.P.Nos.13413 of 2017

Tvl.Madras Steels and Tubes,
rep. by its Proprietor NarendraSakariya
.. Petitioner

Vs.

1. The State of Tamil Nadu
   rep. by its Secretary to Government,
   Department of Commercial Taxes and
   Registration Department,
   Fort St. George,
   Chennai 600 009.

2. The Commissioner of Commercial Taxes,
   2nd Floor, Eliagam, Chepauk,
   Chennai 600 005.

3. The Deputy Commissioner (C.T.)
   C.T.Buildings, Enforcement Wing South,
   Greams Road, Madras 600 006.

4. The Deputy Commercial Tax Officer,
   Roving Squad,
   Thiruvellore Enforcement Wing South,
   Greams Road,
   Madras 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari Writ of Certiorarified Mandamus to call for the records relating to the issue of the notice by the fourth respondent in his proceedings in G.D. Notice No.29/2017-18, dated 09.05.2017 (Form No.41) and quash the same and further direct the fourth respondent to release the vehicle bearing No.TN-46-L-6676.

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https://hcservices.ecourts.gov.in/hcservices/

For Petitioner : Mr.M.MD.Ibrahim Ali
For Respondents : Mr.Kanmani Annamalai
Addl. Govt. Pleader (Tax)

O R D E R

Heard Ms. M.MD.Ibrahim Ali, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), who took notice for the respondents and with their consent, the writ petition is taken up for disposal.

2. This Writ Petition has been filed challenging the Goods Detention Notice in G.D. Notice No.29/2017-18, dated 09.05.2017 issued by the fourth respondent as being without jurisdiction and authority of law and contrary to the principles of natural justice.

3. The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 and assessee on the file of the first respondent. The petitioner has made sales of steel rubes to M/s.Ansaldo Caldair Boilers India Pvt. Ltd. as evidenced from the Tax Invoice No.31364, dated 08.08.2017 for a value of Rs.13,70,326/- which accompanied with consignment during transport the fourth respondent, during transport at Kallikuppam intercepted the vehicle and detained the consignment on the ground that the petitioner has not raised the inward JJ Form under Section 67-A of the TNVAT Act, 2006. However, the petitioner was informed that unless the payment of one time tax and double time tax as compounding fees were being made, the goods in question cannot be released notwithstanding the fact that the consignment viz., garments has not been reflected anywhere under Section 67-A of the TNVAT Act, 2006, like commodities mentioned thereunder. Aggrieved over the same, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the Goods Detention Notice No.29/2017-18, dated 09.05.2017 is ex-facie illegal, arbitrary and unjustifiable in law. The learned counsel for the petitioner submitted that the petitioner is inclined to pay the one time tax to be quantified by the authority concerned for the purpose of the release of the goods.

5. On the other hand, Mr.S.Kanmani Annamalai, learned Government Advocate (Taxes), who took notice for the respondents submitted that when the petitioner's goods were transported, it was checked. He further submitted that when the driver of the

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vehicle refused to produce the valid documents, the second respondent detained the goods for the purpose of verifying the genuineness of the transactions, as such, the impugned notice came to be issued as per law.

6.Heard the rival submissions made on both sides and perused the materials available on record.

7. Though the learned counsel for the petitioner raised various grounds against the impugned notice, he ultimately submitted that the petitioner is willing to pay the one time tax amount to be quantified by the authority concerned for the purpose of early release of the goods.

8. In the light of the above submissions, there will be a direction to the respondents to quantify the 'one time tax', within 24 hours from the date of receipt of a copy of this order and on such quantification, the petitioner shall remit the one time tax amount and on such remittance, the goods along with the vehicle shall forthwith be released by the respondents. It is made clear that the petitioner is at liberty to work out the other remedies available under the provisions of the TNVAT Act.

9. With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To,

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Department of Commercial Taxes and
Registration Department,
Fort St. George,
Chennai 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Eliagam, Chepauk,
Chennai 600 005.

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3. The Deputy Commissioner (C.T.)
   C.T.Buildings, Enforcement Wing South,
   Greams Road, Madras 600 006.

4. The Deputy Commercial Tax Officer,
   Roving Squad,
   Thiruvellore Enforcement Wing South,
   Greams Road,
   Madras 600 006.

+1 CC to Spl. Govt. Pleader sr 37304
+1 Cc to Mr.M.MD.Ibrahim Ali, Advocate sr 37291

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HIGH COURT OF JUDICATURE MADRAS
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