IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.12658 of 2017 and
W.M.P.Nos.13482 and 13483 of 2017

M/s.Ashok Magnetics Limited,
rep.by its Authorised Signatory-P.Gnanavelu,
R.S.No.33/5, 34/12, 13, Eripakkam Village,
Neettapakkam Commune,
Puducherry. ... Petitioner

Vs

The Checkpost Officer,
Commercial Taxes Checkpost,
Palakkad Main Road,
Gopalapuram,
Pollachi Taluk,
Coimbatore District. ... Respondent

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the respondent in his impugned proceedings in GDR No.78/2017-2018 dated 04.05.2017, quash the same as illegal and against the provisions of the Act.

For Petitioner : Mrs.R.Hemalatha

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

ORDER

By consent of the learned counsel on either side, the main writ petition itself is taken up for final disposal.

2.The petitioner has filed this writ petition challenging the goods detention notice dated 04.05.2017 issued by the respondent, on the ground that the respondent is only a check-post officer and he is not the officer authorised under Rule 15 (1) of the TNVAT Rules, 2007, to detain the goods.

3.According to the petitioner, the petitioner is engaged in the business of providing logistic services. While so, M/s.Global Steels, Palakkad, Kerala, booked the petitioner's services for transporting 16mm TMT Bars from Puducherry to Palakkad. Accordingly, the goods were sent along with all necessary documents in a vehicle bearing Regn.No.KA-01-B-9381. When the vehicle was in transit, on 04.05.2017 the respondent intercepted the same and detained the loaded goods and issued a Goods Detention Notice dated 04.05.2017 on the ground that consignment transit pass was not entered in the Entry Checkpost and any other seal not entered in the bills, ie., Checkpost seal or RTO seal. Aggrieved by the same, the petitioner is before this Court.

4.Learned counsel for the petitioner submitted that the driver of the vehicle forgot to get the seal on the transit pass at entry point checkpost and at the exit checkpost without knowing the clear procedures.

5.On the other hand, Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), appearing for the respondent submitted that the goods in question were transported without entering the consignment transit pass in the entry and exit checkpost and further no other seal, viz. checkpost or RTO seal, were entered in the bills. Hence, the goods were detained and the goods detention notice was issued to the petitioner in accordance with law.

6.Heard both sides and perused the materials placed before this court.

7.Admittedly, the petitioner transported the goods in question without marking the entry of the consignment in the entry and exit checkposts and no other seal were found in the bills, which according to the petitioner, is due to inadvertent mistake made by the driver of the vehicle. Therefore, the respondent detained the same and issued the impugned Goods Detention Notice to the petitioner.

8.However, in order to give quietus to the issue, the respondent, in consultation with the Assessing Officer concerned, shall quantify the tax to be paid by the petitioner. On such quantification and on intimation, the petitioner is directed to pay the same. On such payment by the petitioner, the goods detained under the impugned notice, shall be released forthwith. With regard to compounding of offence, it is always open to the petitioner to challenge the same before the competent authority in the manner known to law.

9.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

KM 17.05.2017

BEING MENTIONED

This matter having been listed under the caption "For Being Mentioned" on 25.05.2017 in pursuant to the Order of this Court dated 17.05.2017 in the presence of the abovesaid counsels on the either sides, the Court made the following Order:-

This writ petition is posted today under the caption "for being mentioned", seeking clarification of paragraph-8 of the final order passed by this Court on 17.05.2017, which reads as follows:

> "8.However, in order to give quietus to the issue, the respondent, in consultation with the Assessing Officer concerned, shall quantify the tax to be paid by the petitioner. On such quantification and on intimation, the petitioner is directed to pay the same. On such payment by the petitioner, the goods detained under the impugned notice, shall be released forthwith."

2.The learned counsel for the petitioner, today, brought to the notice of this Court that the petitioner is not a registered dealer within the State of Tamil Nadu.

3.Hence, this Court directs the Check Post authority to quantify the taxes to be paid by the petitioner according to the schedule to VAT Act and inform the same to the petitioner. On such intimation, the petitioner is directed to pay the same. On such payment by the petitioner, the goods detained under the impugned notice shall be released forthwith.

KM 25.05.2017

Sd/-
Assistant Registrar (VO)

/true copy/

Sub Assistant Registrar

To

The Checkpost Officer, Commercial Taxes Checkpost,
Palakkad Main Road, Gopalapuram, Pollachi Taluk,
Coimbatore District.

+1cc to Mrs.R. Hemalatha, Advocate, S.R.No.38106

W.P.No.12658 of 2017 and
W.M.P.Nos.13482 and
13483 of 2017

GJ(CO)
VR(19/5/2017)

CA(26.05.2017)