IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.3915 of 2017
And
W.M.P.No.3988 of 2017

Tvl.Appoos Plywoods
Rep by its Partner Mr.M.Shabeer ... Petitioner

Vs.

The Commercial Tax Officer (Enf),
Roving Squad,
Vellore, Vellore. (Dist.) ... Respondent

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent in G.D.No.635/2016 - 2017 dated 12.02.2017 and quash the same being illegal, invalid and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

1.Issue Notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.The writ petition is directed against the goods detention notice dated 12.02.2017.

2.1.The record shows that pursuant to the goods detention notice, a compounding notice dated 13.02.2017, was issued to the petitioner.

2.2.The reasons set out for detaining the subject goods as set out in the impugned goods detention notice are as follows:

"Goods Transported from Koovappalli, Kerala to Chennai without any valid records as prescribed in rule 15(3)(a) of TNVAT Act.

> Hence to verify the genuineness of Transaction and to protect the leakage of Govt. Revenue the goods is hereby detained with vehicle at Ranipet office with their own risk.”

3.Learned counsel for the petitioner says that the detained goods were being moved from Kerala to the State of Maharastra, pursuant to an Inter-State sale transaction when they were intercepted.

3.1.It is the petitioner's contention that no local sale is involved and therefore, no tax is payable within the State of Tamil Nadu.

4.On the other hand, a perusal of the impugned notice would show that there was a diversion made by the transporter, which raised a suspicion in the mind of the respondent. Consequently, the subject goods were detained and compounding notice was issued, whereby, the petitioner has been called upon to pay one time tax, at the rate of 14.5%, equivalent to Rs.69,969/-, along with duty, amounting to Rs.1,39,938/-.

5.Learned counsel for the petitioner says that, in order to expedite the release of the subject goods, without prejudice to its rights and contentions, the petitioner will furnish security by way of bank guarantee, equivalent to the tax sought to be imposed. It was also submitted that the bank guarantee will be furnished, without prejudice to the right of the petitioner to challenge the imposition of tax and penalty.

6.Mr.Annamalai says, that, if, security is furnished, as indicated above, by the petitioner, the subject goods will be released, forthwith, to the petitioner.

7.Accordingly, the writ petition is disposed of with a direction to the respondent to release the detained goods, forthwith, upon a bank guarantee of a Nationalized Bank/ Scheduled Bank, equivalent to a sum of Rs.69,969/- being furnished by the petitioner.

7.1.Needless to say, the fact that, security has been furnished will not, come in the way of the petitioner, challenging both the imposition of tax and levy of penalty.

7.2.Furthermore, the petitioner will keep the bank guarantee, so furnished alive, till further orders of the concerned authority.

8.The writ petition is disposed of in the aforementioned terms.

9.Resultantly, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer (Enf),
Roving Squad,
Vellore, Vellore. (Dist.)

+1cc to Mr.D. Vijayakumar, Advocate, S.R.No.10077

br(CO)
md(16/02/2017)

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