IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.08.2017
CORAM:
THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
W.P.No.12630 of 2008 and
M.P. Nos.2 & 3 of 2008

M/S. BALAJI INSULATION
REP. BY ITS PROPRIETOR, MR. G. JANARDHAN RAJU,
NO. 112B, PLOT NO. 93, SECTOR-8,
RISHAB CORNER, 1st FLOOR, GANDHIDHAM P.O.
GANDHIDHAM,
KACHCHH-370 201.
..PETITIONER
Vs.

1. THE ASSISTANT COMMERCIAL TAX OFFICER,
UTHUKOTTAI CHECK POST,
UTHUKOTTAI-602026.

2. M/S. ANMOL TRANSPORT,
HAVING ITS BRANCH OFFICE AT
NO.3 VARADHAMUTHAIAPPAN STREET,
SEVEN WELLS, CHENNAI-1. ..RESPONDENTS

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent in G.D.No.23/2008-2009, quash the impugned proceedings dated 22/04/2008 and further direct the first respondent to release the goods in L.R.No. 184973 dated 18/04/2005 transported by the petitioner through the office of the second respondent.

For Petitioner : Mr.P.Govardhan for
Mr.V.Sundareswaran

For first Respondent: Mr. K.Venkatesh,
Government Advocate

For Second Respondent: No appearance

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ORDER

The petitioner has challenged the goods detention notice issued by the first respondent. The said notice dated 22/04/2008, was issued for the reason that the petitioner is not a registered dealer within the State of Tamil Nadu under the Tamil Nadu Value Added Tax Act, 2006 and to verify the genuineness of the transaction, the goods were detained.

2. On a perusal of the invoice, it is seen that the goods have moved from Gujarat to Ennore and it is raised in the name of the petitioner M/S. Balaji Insulation, C/o. Ennore Tent Terminal Private limited. Therefore, the goods have been moved by the petitioner themselves for the purpose of carrying out a contract awarded to them in the Ennore Terminal. Therefore, the respondents cannot compel the petitioner to register themselves as a dealer within the State of Tamil Nadu.

3. Thus, there is no attempt made by the petitioner for evasion of tax payable within the State, as the goods have moved from Gujarat to Chennai for performing contract work at Chennai, by the petitioner, the owner of the goods.

4. In somewhat similar circumstances, this Court in M/s. Indian Commerce & Industries Co.P.Ltd. Vs. The Deputy Commercial Tax Officer and two others in W.P.No. 37759 of 2016 dated 07.11.2016 has quashed the detention notice.

5. Thus, with the above observations, the writ petition is allowed and the impugned order is quashed and it is open to the petitioner to approach the appropriate authority for the refund of Rs.30,000/- paid by them. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

sli Sub Assistant Registrar

To

THE ASSISTANT COMMERCIAL TAX OFFICER,
UTHUKOTTAI CHECK POST,
UTHUKOTTAI-602026.

W.P.No.12630 of 2008 and
M.P. Nos.2 & 3 of 2008

arv
aa07/09/2017