IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.03.2018

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THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.Nos.808 and 809 of 2011

1.The District Collector
Erode District at Erode.

2.District Supply Officer
Erode District at Erode.
.. Appellants in both appeals/Respondents in both WPS.

Vs.

M/s Excel Tyres & Agencies Pvt. Ltd.
Rep by its Managing Director
Mr.R.Mahalingam
152/G3/Mangayarkarasi Womens College Road
Paravai, Madurai 625 402
.. Respondent in W.A.808/2011/Petitioner in WP.NO.6450/1999

G.S.Swaminathan
Proprietor
M/s Excel Tyres & Agencies (P) Ltd.
152/G3/Mangayarkarasi Womens College Road
Paravai, Madurai 625 402
.. Respondent in W.A.809/2011/Petitioner in WP.NO.6451/1999

Writ Appeals filed under Clause 15 of Letters Patent to set-aside the order dated 08.06.2009 made in W.P.Nos.6450 and 6451 of 1999 on the file of this Court.

Prayer in WP.NO.6450 & 6451/1999:

Writ Petitions are filed Under Article 226 of the Constitution of India for issuance of Writ of Certitiorarified Mandamus, to call for the records of the first respondent in his proceedings No.Na.Ka.9624/99/K-3 dated 12.03.99 and to quash the same and directing the first respondent to refund the amont of Rs.1,08,000 to each of the petitions with interest.

For Appellants : Mr.V.Anandhamurthy
Additional Government Pleader
For Respondents: Mr.K.Magesh

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN, J.]

These two intra court appeals are directed against the common order dated 08 June, 2009 allowing the writ petitions filed by the respondents and setting aside the order of confiscation of the vehicle besides allowing the claim for refund of the amount collected on the allegation that the goods were transported without proper licence.

2. The goods carriage vehicle bearing Registration No.TN-57-Z-5299 owned by the respondent in W.A.No.809 of 2011 was intercepted by the District Supply Officer, Erode at about 10.00 a.m. of 01 February, 1999. The vehicle along with the goods was seized by the District Supply Officer on allegation that the transportation was without any valid licence. The vehicle as well as 6000 kgs. of Atta wheat were taken into custody and it was produced before the District Collector for initiating proceedings for confiscation.

3. The District Collector, after giving opportunity of hearing to the respondent in the respective appeals passed an order confiscating the vehicle. The District Collector permitted the owner of the vehicle to pay a sum of Rs.1,08,000/- in lieu of confiscation of the vehicle. Similarly, the firm involved in the transportation of Atta was fined. The fine amount of Rs.1,08,000/- was paid by the owner of the goods. The order passed by the District Collector, Erode, dated 12 March, 1999 was challenged before the writ court by the owner of the goods as well as the owner of the vehicle.

4. The learned single Judge found that there was no observation in the order passed by the District Collector that the vehicle in question was used with the full knowledge that the goods were transported without obtaining proper permit from the statutory authority. The order directing the owner of the goods to pay fine instead of confiscation of the goods was set aside on the ground that immediately after the seizure, documents were produced before the Supply Officer indicating the licence number. Feeling aggrieved, the appellants have come up with these intra court appeals.

5. We have heard the learned Additional Government Pleader on behalf of the appellants. We have also heard the learned counsel for the respondent in the respective intra court appeals.

6. There are two issues involved in these two intra court appeals. The first issue relates to the transportation of 6000 kgs of Atta wheat on 01 February, 1999 in a vehicle owned by the respondent in W.P.No.6451 of 1999.

7. The goods were seized on the allegation that they were transported without obtaining permit from the statutory authority under the Essential Commodities Act. The bill produced by the driver of the vehicle contained the name of the supplier. The name of Excel Traders was clearly mentioned in the bill. It is a matter of record that the licence number was not mentioned in the bill. Subsequently, the Trader produced the licence indicating that statutory licence was issued in favour of M/s Excel Traders. The licence of both the retailer as well as the wholesaler were produced before the statutory authority. The statutory authority would be justified in its finding in case there was no reference about the name of the trader, whether it be the retailer or the wholesaler in the invoice. However, in the subject case, the name of the retailer as well as the wholesaler were mentioned. Therefore, it cannot be said that the respondents have transported Atta wheat in violation of the provisions of the Essential Commodities Act. The fact that the licence number was not mentioned in the invoice alone would not constitute an offence under the provisions of the Essential Commodities Act. We are, therefore, of the view that the learned single Judge was correct in quashing the order challenged in W.P.No.6450 of 1999.

8. The next issue relates to the confiscation of the vehicle. We have already held that the goods were transported on the strength of a licence. In view of the said finding, the order of confiscation is also liable to be quashed. The order confiscating the vehicle would not stand unless it is proved that the vehicle was used for transportation of goods, in violation of the statutory provisions. Since we have already held that the goods were transported on the strength of the licence, the impugned order in W.P.No.6451 of 1999 is also liable to be quashed.

9. The learned single Judge analysed the entire factors and rightly allowed the writ petitions. The appellants have not produced any additional material to take a different view in the matter.

In the upshot, we dismiss the intra court appeals. No costs. We direct the appellants to refund the amount to the respective respondents consequent to the order passed by the learned single Judge within a period of four weeks from the date of receipt of a copy of this judgment.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gms

To

1.The District Collector
Erode District at Erode.

2.District Supply Officer
Erode District at Erode.

+ 2 cc to Mr.K.Magesh Advocate,SR.19212,19211

+ 1 cc to The Govt.Pleader, SR.19647

W.A.Nos.808 and 809 of 2011

skv(co)
nr 05/04/2018