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W.P.No.21756 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.21756 of 2023

M/s.Kumutham Agencies,
Rep. by its Proprietor,
No.29, Nellikuppam Road,
Semmandalam, Cuddalore – 607 001.

.. Petitioner

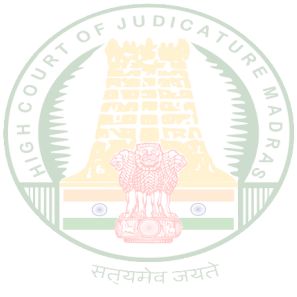
Vs.

1.State Tax Officer-II, (Intelligence),
Adjudication Cell, Vellore.

2.State Tax Officer (ST),
Intelligence, Roving Squad,
Villupuram Group-III.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in G.D.No.2905/2023-24 dated 12.07.2023 and quash the goods detention order in O.R.No.2905/2023-24 dated 12.07.2023 and direct the 2nd respondent to release the detention goods as illegal and contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006.



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For Petitioner : Mr.C.Baktha Siromoni

For Respondents : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

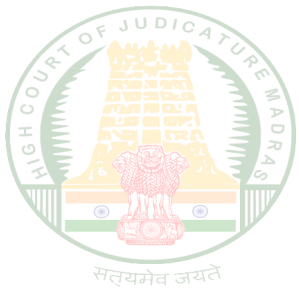
ORDER

The petitioner has challenged the impugned proceedings of the 1st respondent dated 12.07.2023 bearing G.D.No.2905/2023-24, to quash the same and direct the 2nd respondent to release the detention goods as illegal and contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006.

2.The fact on record indicate that the vehicle bearing Registration No.TN 31 CD 0115 was intercepted by the officers of the 2nd respondent and statement from the Driver of the lorry was recorded. The statement recorded from the Driver of the lorry reads as under:

“1.சரக்கு வண்டியுடன் வரப்பெற்ற டீசல் அளவு ரூ.6000 லிட் ஆனால் 1000 லிட்டர் மட்டுமே கொண்டு செல்ல அனுமதிக்கப்பட்டுள்ளது. அதற்கு மேல் கொண்டு செல்ல அரசின் அனுமதி பெறப்பட வேண்டும்.

2.வாகன ஓட்டுநர் இந்த டீசல்-ஐ வளவனூர் என்ற ஊரில் இருந்து எடுத்துவருவதாக கூறினார். ஆனால் வாகனத்துடன் வரப்பெற்ற ரசீதியில் கடலூர் குழுதம் ஏஜென்ஸிஸ் என்று குறிப்பிடப்பட்டுள்ளது.



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3.இருப்பினும் ரசீதுபடி இந்த சரக்கு
கடலூரிலிருந்து சீர்காழி செல்வதாக
உள்ளது. ஆனால் வாகனத்தை கடலூர் to
விருதாசலம் சாலையில் அமுதலம்பட்டு
ஊராட்சிக்குட்பட்ட பகுதியில்
பிடித்துள்ளோர்.”

3.The specific case of the petitioner is that the aforesaid vehicle was carrying diesel, which is highly inflammable. Since the road between Cuddalore and Seerkazhi are under repair, the Driver took a different route and when the Driver was taking food, the Roving Squad came and seized the vehicle.

4.The learned counsel for the petitioner would submit that the explanation offered by the petitioner has not been accepted, as the vehicle had taken a different route to avoid jerk to reduce the risk of the vehicle catching fire while in transit.

5.The learned Government Advocate for the respondents on the other hand would submit that the impugned order detaining the goods and imposing penalty twice the amount of duty was well reasoned and does not require any interference. That apart, it is submitted that the petitioner has alternate remedy before the Commissioner and therefore,



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the petitioner should be relegated to work out the remedy before the Appellate Commissioner.

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6.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

7.Although the learned counsel for the petitioner would submit that the petitioner is willing to pay the duty. As far as the penalty is concerned, the learned counsel for the petitioner would submit that the petitioner may be relegated to work out the remedy before the Appellate Commissioner. Fact remains that the movement of diesel was not covered with proper invoice and transport document. In any event, the petitioner was liable to pay the tax under Tamil Nadu Value Added Tax Act, 2006, on the goods. Thus, there is really no concession in the offer made by the learned counsel for the petitioner.

8.At the same time, considering the fact that the product in the vehicle is diesel which is prone to inflammable, Court is inclined to order provisional release of the vehicle, subject to the petitioner paying the



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disputed tax that has been arrived in the impugned order and a further sum of Rs.1,00,000/- (Rupees One Lakh Only) towards security penalty imposed within a period of seven days from the date of receipt of a copy of this order.

9.The amounts to be paid by the petitioner pursuant to this order can be appropriated finally subject to final outcome of the proposed appeal to be filed by the petitioner. The petitioner shall also execute a bond to the satisfaction of the 2nd respondent within such period. Subject to the compliance of the conditions stipulated above, the above vehicle of the petitioner shall be provisionally released.

10.Accordingly, the Writ Petition stands disposed of with the above observations. No costs.

20.07.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

NOTE: Issue order copy on 20.07.2023.



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C.SARAVANAN, J.

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To

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