(2014) 05 MAD CK 0016

Madras High Court

Case No: Writ Petition No. 13397 of 2014 and M.P. No. 1 of 2014

M/s. Balaji Tyres — APPELLANT

Vs

The Deputy Commercial Tax Officer, Ranipet — RESPONDENT

Date of Decision: May 8, 2014

Acts Referred:

- Tamil Nadu Value Added Tax Act, 2006 - Section 54, 67, 67(4)

Hon'ble Judges: R. Sudhakar, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

R. Sudhakar, J.

Heard Mr. P.R. Kumar, learned counsel appearing for the petitioner and Mrs. Kanmani Annamalai, learned Special Government Pleader (T) appearing for the Respondent.

2. The petitioner seeks a writ of Certiorarified Mandamus to call for the records of the respondent in his Goods Detention Notice No. 2002/14-15, dated 14.04.14 and consequential Compounding Notice in G.D. No. 2002/2014-15 dated 15.04.2014, to quash the same as illegal, and to direct the respondent to release the goods detained vide goods detention Notice No. 2002/14-15 dated 14.04.2014.

3. According to the petitioner, he is a registered dealer under the TNVAT Act with TIN No. 33404282276 and he is an assessee on the file of the Commercial Tax Officer, Arni assessment Circle. The petitioner is effecting the purchase from MRF Tyres, Vellore Depot and he is not effecting any interstate purchase. When there is no stock of tyres in the shop of the petitioner, they helps the customers for getting the tyres from other dealer at Chittoor, Andhra Pradesh. The dealer M/s. Shriram Tyres, Chittoor, Andhra Pradesh, has sold Tractor Tyres and Tubes to two customers

at Vellore and Arcot directly, by raising invoice and collecting the necessary tax. The respondent has detained the goods vide goods detention Notice No. 2002/14-15 dated 14.04.2014 stating that the consignee delivery address is an unregistered place and TIN/CST No. not noted in the invoice.

4. Though the writ petition is filed for Certiorarified Mandamus, the learned counsel for the petitioner pleads that the petitioner is willing to pay the tax demanded under protest and seeks release of the goods in terms of Section 67(4) of the Tamil Nadu Value Added Tax Act, 2006 which provides for release of goods on payment of appropriate tax. In so far as the compounding fine is concerned, it is the plea of the petitioner that the petitioner should be allowed to pursue the said remedy before the authority concerned on merits by way of a revision u/s 54 of the TNVAT Act, 2006.

5. Heard Mrs. Kanmani Annamalai, learned Special Government Pleader (Tax), who states that the authority will consider the claim for release of goods on payment of tax demanded.

6. A similar plea has already been considered by this Court in the order dated 8.11.2012 in W.P. No. 30304 of 2012 (M/s. Volvo India Private Limited v. Deputy Commercial Tax Officer, Katpadi) and in the order dated 04.01.2013 in W.P. No. 133 of 2013 (SRV Engineering Private Limited v. Deputy Commercial Tax Officer, Cuddalore) and goods were ordered to be released on payment of tax.

7. Under such circumstances, the respondent is directed to release the goods forthwith in terms of Section 67 of the TNVAT Act, 2006 on payment of tax as determined in the notice and proceed further in respect of the composition fee subject to the right of the petitioner to contest the same on merits and in accordance with law.

8. This writ petition is disposed of accordingly. No costs. Consequently, M.P. No. 1 of 2014 is closed.