(2015) 09 MAD CK 0084

In the Madras High Court

Case No : Writ Petition No. 28262 of 2015

Macro Hitech Engineering — APPELLANT

Vs

The Commercial Tax Officer Enforcement Rowing Squad and Others — RESPONDENT

Date of Decision : 08-09-2015

Acts Referred:
Central Sales Tax Act, 1956 — Section 3(b)

Citation : (2015) 09 MAD CK 0084

Hon'ble Judges : R. Mahadevan, J.

Bench : Single Bench

Advocate : P. Rajkumar, for the Appellant; A.N.R. Jayaprathap, Government Advocate, for the Respondent

Judgement

R. Mahadevan, J.—Heard the learned counsel appearing for the petitioner and Mr. A.N.R. Jayaprathap learned Government Advocate, who took notice for the respondents. With the consent of the learned counsel on either side, the writ petition itself is taken up for final disposal.

2. This writ petition is filed challenging the proceedings of the first respondent in GD No. 1070/2015-2016 dated 31.08.2015 and to direct the respondents to release the goods without insisting on one time tax or compounding fee.

3. The petitioner firm is an authorized dealer in electrical goods, transformers, etc. for reputed manufacturers and a registered dealer under the files of the second respondent authority. It is stated that M/s. MRF Ltd. Puducherry, placed orders on the petitioner for supply of Energy Saving High bay Lamp and in turn, petitioner placed orders with M/s. Mahindra CIE Automotive Ltd. Pune. As instructed by the petitioner, M/s. Mahindra CIE Automotive Ltd., Pune, had shipped the goods to M/s. MRF Ltd. Puducherry, vide Tax Invoice No. 601500449 dated 27.8.2015. According to the petitioner, this transaction is nothing but transit sales falling under Section 3(b) of the CST Act. However, when the goods were moving, it was intercepted by the 1st respondent on 31.08.2015. On

verification of the tax invoice and the transport receipt, the 1st respondent issued the goods detention notice G.D. No. 1070/2015-16 dated 31.08.2015 alleging that the goods were transported from M/s. Mahindra CIE Automotive Ltd. Pune, to the petitioner in Chennai and in the same invoice, the goods are delivered to M/s. MRF Ltd. Puducherry and that the petitioner has not raised any inter-state sale invoice or delivery notice in Form JJ required under CST Act.

4. Challenging the said goods detention notice, petitioner has filed this writ petition for issuance of a writ of certiorarified mandamus to call for the impugned proceedings of the first respondent in GD No. 1070/2015-2016 dated 31.08.2015 and quash the same as issued without authority of law and further direct the first respondent to release the detained consignment of 177 Nos. of Cartons boxes containing Energy saving High-bay Lamp without insisting on one time tax or compounding fee.

5. The learned counsel appearing for the petitioner submits that when the goods were accompanied by proper bill, the 1st respondent has no authority to detain the consignment which was moved by way of sale in transit from one State to another and, therefore, the impugned proceedings of the 1st respondent demanding tax and compounding fee cannot be sustained.

6. On the other hand, the learned Government Advocate appearing for the respondents submits that the invoice produced on interception of the vehicle shows that the goods were transported from M/s. Mahindra CIE Automotive Ltd. Pune, to the petitioner in Chennai and the same invoice indicates that the goods are to be delivered to M/s. MRF Ltd. Puducherry and that there is no sale invoice, much less inter-state sale invoice or any delivery note raised by the petitioner to show that the goods were being moved to Puducherry on inter-State sale and hence, the detention.

7. The learned counsel for the petitioner submits that though the prayer is couched in such a manner that the goods can be directed to be released without insisting on one time tax and compounding fee, in order to give a quietus to the issue, the petitioner is willing to pay one time tax.

8. Accordingly, this writ petition stands disposed of with a direction to the respondents to release the goods forthwith on condition that the petitioner pays the one time tax of a sum of Rs. 2,13,516/- (Rupees two lakhs thirteen thousand five hundred and sixteen only). As regards the compounding fee demanded, it is always open to the petitioner to agitate the same in the manner known to law. Consequently, connected miscellaneous petition is closed. There shall be no orders as to the costs.

