HON'BLE SRI JUSTICE G.CHANDRAIAH

&

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No. 35067 of 2015

DATE: 28.10.2015

Betweeen:

M/s. Sri Gopi Krishna Oil Mill .. Petitioner

And

Commercial Tax Officer
and another .. Respondents

_
_
_
_
<u>O R D E R</u>:- (per Hon'ble Sri Justice Challa Kodanda Ram)

Notice of detention of vehicles with goods issued on 10.10.2015 by the 2nd respondent is challenged in this writ petition.

The case of the petitioner is that the petitioner is a registered dealer with Commercial Tax Officer, Narasaraopet and they purchased Bengal Gram from the ryots at Nagulapalepadu and the goods were actually consigned to M/s.K.G.Rice Traders, Naya Bazar, New Delhi in TIN No.07420419766. The vehicles with goods were intercepted on the way and detained on the ground that registration certificate of the petitioner does not contain whether the petitioner is having any godown or branch at Nagulapalepadu.

Heard Sri S.Krishna Murthy, learned counsel for the petitioner and Sri Shaik Jeelani Basha, learned Standing Counsel for Commercial Taxes and perused the material available on record.

Prima facie, the ground on which the detention of the vehicles with goods has been made is unsustainable for the reason that a dealer is entitled to purchase goods from anywhere either within the State or outside the State. The detention can be made only on the grounds mentioned in Section 45 of the A.P. Value Added Tax Act, 2005. In that view of the matter and considering the fact that the goods are consigned to New Delhi and the tax rate applicable is 2% under the Central Sales Tax Act, this Court is inclined to dispose of the writ petition with the following direction:

> "The respondents shall release the detained goods belonging to the petitioner on condition that the petitioner pays the tax amount as applicable to C.S.T. transaction, and such payment is subject to further orders that may be passed by the respondents-authorities after considering the explanation that may be submitted by the petitioner."

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

28.10.2015

CHALLA KODANDA RAM,J

bcj