THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

and

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.38976 of 2015

ORDER: (per RR, J)

The subject vehicle was detained on 28.11.2015 on the ground that there were no documents. While the notice of detention dated 28.11.2015 records the date of check as 28.11.2015 at 6.30 A.M., Sri P.Girish Kumar, learned counsel for the petitioner, would contend that the goods were, in fact, detained at 10.30 A.M. and, though E-Waybills and invoices were produced, the goods were not released.

The question, whether or not the goods were accompanied by necessary documents, can only be examined after a counter-affidavit is filed. Sri P.Girish Kumar, learned counsel for the petitioner, would however express urgency, and contend that, instead, this Court may direct the respondents to release the subject vehicle on furnishing proof of payment of VAT on the invoice value of the goods.

Section 45(7)(a) of the APVAT Act stipulates that, where the goods are carried without paying tax, if any, payable, or goods are carried without being properly accounted for in the documents referred to in clause (b) of sub-Section (2), the said Officer shall collect the tax payable on the goods so carried and, in addition, levy penalty not exceeding two times the amount of tax payable on such goods after giving a reasonable opportunity, to the person likely to be effected, against the proposed penalty.

Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes would submit that, while the goods would be released on payment of tax, the respondents should be given liberty to initiate penalty proceedings in accordance with law.

On payment of the tax due, on the invoice value of the goods, the subject vehicle shall be released forthwith along with the goods therein. It is made cleat that this order shall not preclude the respondents, if they so choose, to initiate penalty proceedings in accordance with law. The writ petition is, accordingly, disposed of. No costs.

Miscellaneous Petitions pending, if any, shall also stand disposed of.

RAMESH RANGANATHAN, J

2nd DECEMBER, 2015.

M.SATYANARAYANA MURTHY, J

Note: issue c.c. by tomorrow.

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