THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.9574 of 2004

ORDER: (*Per Hon'ble Sri Justice R.Subhash Reddy)*

This writ petition is filed with the prayer, which reads as under:

> "For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon'ble Court may be pleased to issue an appropriate writ or order or direction more particularly in the nature of Writ of Mandamus declaring the action on the part of the respondents namely the CTO (FAC) and the ACTO (INT) of Charminar Circle, Gaganvihar complex, 9th floor, Hyderabad in detaining the consignments of cashew nut kernel covered by Sale Bill No's.54 and 55 dated 15.05.2004 as also way bill No.ADO 0186647 duly signed by the Sales Tax Officer as also goods consignment notes while in transit and transport from the Rampa in the State of Orissa enroute to Nagpur in the State of Maharashtra on 18.05.2004 with the transport company and the seizure of the second respondent herein dated 20.05.2004 and further action of the first respondent dated 31.05.2004 proposing to confiscate the goods to the State of Andhra Pradesh as illegal, without authority of law, without jurisdiction and contrary to the embargo placed in Section-38 of the APGST Act, 1957 and also violative of Article-265 of the Constitution of India, Articles-301 and 304A of the Constitution and also infringing Articles-14, 19(1) (g) of the Constitution of India and consequently direct the respondents to release the goods to the petitioner for onward transport to Nagpur or rebook the goods to its place of business Rampa in the State of Orissa and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case."

Consequent to seizure of subject goods, confiscation notice, dated 31.05.2004, is issued by the 1st respondent-Commercial Tax Officer, Charminar Circle, Hyderabad, proposing to confiscate the goods in case of the petitioner's failure to pay the demanded tax and penalties within three days from the date of receipt of the notice. Hence, this writ petition.

This Court, while admitting the writ petition as early as on 16.06.2004, directed release of the goods seized on payment of tax on value of the goods.

It is stated that pursuant to interim direction issued by this Court, goods seized were released. On earlier occasion i.e., 10.03.2015, the matter was adjourned to enable the learned Government Pleader to ascertain whether any further orders are passed or not pursuant to issuance of confiscation notice. Today, learned Government Pleader submits that he has not received any instructions from the concerned Officer.

Though the petitioner is seeking quashing of seizure itself, we do not find any ground to declare the seizure as illegal nor to set aside the notice of confiscation. In view of the release of goods seized pursuant to interim orders of this Court, we deem it appropriate to dispose of the writ petition with the direction that the tax paid pursuant to the interim order, dated 16.06.2004, shall be subject to final orders to be passed by the confiscating authority. It is made clear that if orders are not yet passed, it is open to the respondents to pass final orders in accordance with law, as expeditiously as possible.

Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

The miscellaneous petitions, if any pending, shall stand closed.

R.SUBHASH REDDY,J

Dr. B.SIVA SANKARA RAO,J

23.03.2015

v v