HON'BLE SRI JUSTICE G.CHANDRAIAH

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HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No. 35018 of 2015

DATE: 28.10.2015

Betweeen:

M/s. MRF Limited .. Petitioner

And

Assistant Commissioner (CT)
and three others .. Respondents

O R D E R:- (per Hon'ble Sri Justice Challa Kodanda Ram)

Show Cause Notice dated 12.10.2015 issued by the 2nd respondent-Assistant Commercial Tax Officer under Section 45 of the A.P. Value Added Tax Act, 2005 read with Rule 56(1)(a) of the A.P. V.A.T. Rules, 2005 is challenged in this writ petition.

The show cause notice indicates that for release of the goods, the petitioner shall pay tax amount of Rs.2,45,490/- and also furnish security by way of demand draft for an amount of Rs.4,90,980/- i.e. double the tax due as penalty.

The learned counsel for the petitioner has contended that in terms of Section 45(3 and 4) of the A.P. VAT Act, for release of the goods, the dealer is required either to pay the tax or to furnish security for an amount equal to two times the tax payable but not both.

A plain reading of Section 45(3) of the A.P. VAT Act leaves no manner of doubt that the word employed is **"or",** and in that view of the matter, the tax as well as the security as demanded in the show cause notice is not in conformity with the provisions of the Act. For this reason, we are inclined to set aside that part of the show cause notice demanding tax as well as security. Further, as on date, the petitioner has already paid the tax amount of

Rs.2,45,490/- on 13.10.2015.

In view of the above, the writ petition is disposed of with a direction to the respondents-authorities to release the entire stock of the goods belonging to the petitioner along with Vehicle bearing No. AP 26U 8339 forthwith. The petitioner is at liberty to submit his explanation to the show cause notice, and after considering the explanation that may be submitted by the petitioner, the respondents-authorities may pass appropriate orders in accordance with law. 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