THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.8826 OF 2016

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri S.Dwarakanath, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

The petitioner claims to be transporting goods from their factory from Attivaram Village, Naidupet to their branch at Gummudipundi in Tamilnadu. While the goods were being transported, they were detained by the Deputy Commercial Tax Officer, Kavali on the ground that they were not accompanied by a e-waybill, the goods were under valued, and the weighment should be verified.

Sri S.Dwarakanath, learned counsel for the petitioner, would submit that, as the petitioner was transporting goods from his factory to his branch, there was no sale liable to tax under the Andhra Pradesh Value Added Tax Act, 2005; for a technical violation, of not furnishing an e-waybill at the time of verification of the vehicle, the petitioner, a registered dealer within the State of Andhra Pradesh, cannot be mulcted with tax liability and penalty; even otherwise, penalty can be imposed only after giving the dealer an opportunity of being heard; and the goods should be directed to be released on the petitioner paying tax on the invoice value of the goods.

Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would submit that, since a show cause notice has been issued to the petitioner, a registered dealer in the State of Andhra Pradesh, the respondents may be directed to release the goods on payment of VAT on the invoice value of the goods; and the respondents be permitted to initiate penalty proceedings, against the dealer, in accordance with law.

In view of the submissions of both Sri S.Dwarakanath, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, we consider it appropriate to direct the respondents to release the goods, and the vehicle in which the goods were being carried, on the petitioner furnishing proof of payment of VAT on the invoice value of the goods. It is made clear that this order shall not preclude the respondents, if they choose, from initiating penalty proceedings, against the petitioner in accordance with law.

The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

23rd March 2016
Note: Issue CC by tomorrow
B/O
RRB