THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Petition No.18506 of 2016

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The proceedings, under challenge in this writ petition, is the detention notice issued in Form 610 dated 07.06.2016. The said notice alleges that the goods vehicles of the petitioners were not checked at the border Check Post, Garikapadu, and the petitioners had thereby violated Sections 49 (6) and 59 of the AP VAT Act, 2005 and Rule 56 of AP VAT Rules 2005, thereby.

Sri K.Durga Prasad, learned counsel for the petitioner, does not press for the relief of damages as sought for in the writ petition, and would submit that it would suffice if the respondents are directed to release the vehicles and the goods forthwith.

Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that the vehicles transporting the goods were accompanied by all documents required to be carried in terms of the provisions of the A.P. VAT Act and the Rules made thereunder; the vehicles were not stopped at the border Check Post, and proceeded thereafter till they were stopped by the 3rd respondent; reference was made to Section 49 (6) in the detention notice by oversight; the petitioner had, in fact, violated Section 45 (6) and 59 of the AP VAT Act; and the respondents were justified in detaining the vehicles and the goods as the petitioners did not stop the vehicle at the border check post.

Section 45 (6) of the Act enables detention of the goods if the tax directed to be paid, or the security directed to be furnished under sub-section (3), is not paid or furnished. Section 45 (3) (a) relates to the tax payable in respect of the sale or purchase of the goods carried in the vehicle, and Section 45 (3) (b) relates to the sale or purchase of the goods not being properly accounted for in the documents accompanying the vehicles. It is not in dispute that, in the present case, all the documents, required to be carried along with the vehicles, were found on inspection to be in the possession of the drivers of the vehicles. Rule 56 of the AP VAT Rules deals with the procedure and powers of officers at check posts, and it is only if Section 45 (6) of the Act were attracted that the procedure prescribed in Rule 56 necessitated compliance.

Even if it were to be presumed that Section 59 of the Act is attracted, all that it empowers the authority to do is to launch prosecution. It is only on his conviction by a competent Criminal Court is the dealer or driver of the vehicle liable to be punished with imprisonment or imprisonment with fine.

We consider it appropriate, in such circumstances, to direct the respondents to forthwith release the vehicles and goods carried therein. It is made clear that this order shall not preclude the respondents from launching prosecution if they are satisfied that the petitioners have violated Section 59 of the Act.

The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 14.06.2016
Note: Issue C.C. on 15.06.2016
B/o
Ksp

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

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Writ Petition No.18506 of 2016

Order of the bench delivered by the

Hon’ble Sri Justice Ramesh Ranganathan)

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Date:14.06.2016

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