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

Writ Petition No.10398 of 2016

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

The proceedings under challenge in this writ petition is the notice of detention of the goods at the check post dated 24.03.2016 whereby the goods, belonging to the petitioner valued at Rs.18,39,040/-, were detained on the ground that they were not covered by E-CST way bills.

While Sri S.Dwarakanath, learned counsel appearing for the petitioner, would submit that the goods which moved from the State of Telangana carried an e-way bill issued by the Government of Telangana, Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would point out that, in terms of Rule 55(2) of the A.P.Value Added Tax Rules, 2005 an e-way bill should have been generated from the sales tax portal of the State of Andhra Pradesh.

Section 45(3)(b)(ii) of the A.P.Value Added Tax Act, 2005 (for short "the Act") stipulates that if, on examination of the goods at the check post, it appears that the sale or purchase of the goods carried has, for the purpose of payment of tax, not been properly accounted for in the documents referred in Section 45(2)(b), then the detained goods can be released on payment of tax, and on furnishing security for an amount equal to two times the amount of tax payable (as amended by Act 4 of 2016 published in A.P.Gazzette dated 12.01.2016).

As the e-way bill, generated from the sales tax portal of the Government of Andhra Pradesh, was not carried along with the goods under transportation, the action of the respondents in detaining the goods cannot be faulted. However, in terms of the amended Section 45(3)(b)(ii) of the Act, the respondents are required to, and they shall, release the goods on the petitioner paying tax on the value of the goods mentioned in the detention notice, and on furnishing security for twice the said amount. As the power conferred under the Act is only to detain the goods, the vehicle in which the goods are carried shall, at the request of the petitioner, be released forthwith.

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

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date:31.03.2016
Note: Issue C.C. tomorrow.
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

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