HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.12980 of 2016

ORDER : (*Per Hon'ble Sri Justice Ramesh Ranganathan*)

Heard Sri M.V.J.K.Kumar, 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 detention notice in Form 610 dated 07.04.2016 and 13.04.2016, detaining 14,970 kgs of dry chillies for Rs.21,16,350/- being carried in vehicle No. AP 16 TX 1166, is questioned in this writ petition as being arbitrary and illegal.

The notice of detention of the goods at the check post, in Form 610 dated 13.04.2016, records that, while the goods vehicle was proceeding from Khammam to Guntur via Chintalapudi, they were detained at Chintalapudi on 07.04.2016; the VAT e-way bill from the Commercial Tax website recorded as if the goods vehicle had commenced its journey from V.R.Puram in East Godavari District; on detention, the vehicle was checked and it revealed that the goods were not properly accounted for in the documents as stipulated in Section 45 (2) (b) of the AP VAT Act; and transport of dry chillies from Khammam in the State of Telangana to Guntur in the

State of Andhra Pradesh was not supported by an online CST way bill. Reference is made by the detaining authority to Section 48 of the AP VAT Act and Rule 55 (2) of the AP VAT Rules to hold that the goods should have been accompanied by an electronically generated CST way bill.

Sri M.V.J.K. Kumar, learned counsel for the petitioner, would, however, contend that the goods vehicle had, in fact, moved only from V.R. Puram in East Godavari District and was proceeding towards Guntur; the petitioner has a branch at Khammam and another at V.R. Puram; by oversight, the invoice issued by the Khammam Branch in the State of Telangana was issued instead of the invoice of the petitioner's Branch at V.R. Puram in East Godavari District; and this, by itself, would not justify either the detention of the goods or the conditions imposed for release of the goods.

If the goods had moved from V.R. Puram in East Godavari District to Guntur District, both of which fall within the State of Andhra Pradesh, then the electronically generated e-way bill issued by the Government of Andhra Pradesh would be a valid document. If, on the other hand, the goods had moved from Khammam in the State of Telangana to Guntur in the State of Andhra Pradesh, the documents required to be carried in the vehicle would include a CST e-way bill, and not a VAT e-way bill issued by the Government of Andhra Pradesh. While the invoice issued by the petitioner shows the consignor as the Khammam Branch of the petitioner in the State of Telangana, Sri M.V.J.K.Kumar, learned counsel for the petitioner, would contend that this invoice was issued by oversight.

Whether the invoice was issued by oversight or not, is a matter which can only be examined when an assessment order is passed and not when the goods are detained. As Section 45 (3) (b) of the AP VAT Act enables the check post authorities to release the goods on payment of tax on the value of the goods as stipulated in the detention notice, and on furnishing security for an amount equal to two times thereof, we consider it appropriate to direct the 2nd respondent to release the goods and the vehicle forthwith on the petitioner furnishing proof of payment of tax on the value of the goods as reflected in the detention notice, and on their furnishing security, for twice the said value, to the satisfaction of the detaining authority. It would suffice to make it clear that the tax so paid shall be subject to the assessment order to be passed later.

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

RAMESH RANGANATHAN, J

SURESH KUMAR KAIT, J

19.04.2016
<u>Note</u>: Issue CC today
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