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

<u>WRIT PETITION No.3702 of 2016</u>

<u>ORDER :</u> (*Per Hon'ble Sri Justice Ramesh Ranganathan*)

The proceedings under challenge in this writ petition is the notice in Form 610 dated 30.01.2016 detaining the subject goods. The said notice records that the goods, being carried in the vehicle, were not supported by Form VAT 650; the lorry number was not entered in e-way bills; and they were not checked in the border check post.

While Sri V.V.N.Narayana Rao, learned counsel for the petitioner, would contend that detention of the goods is illegal, Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that, in terms of Section 45 (7) (a) of the A.P. VAT Act, goods, which are not accompanied by all the documents, can be detained at the check post.

It is wholly unnecessary for us to dwell on this aspect any further, as Sri P. Srinivasa Rao, learned counsel for the 4th respondent, has placed before us a copy of the notice of Assessment of Tax dated 08.02.2016, whereby the 4th respondent was called upon to pay tax of Rs.1,22,670/-. Both Sri V.V.N.Narayana Rao, learned counsel for the petitioner, and Sri P.Srinivasa Rao, learned counsel for the 4th respondent, would submit that the 3rd respondent could be directed to release the goods on their furnishing proof of payment of tax of Rs.1,22,670/-; and it would suffice if this Court were to make it clear that payment of such tax would be subject to the outcome of the assessment proceedings initiated against the 4th respondent. Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would, however, submit that, in addition to tax, Section 45 (7) (a) of the A.P. VAT Act enables the respondents to impose penalty also.

Ends of justice would be met if the 3rd respondent is directed to release the subject goods on the 4th respondent furnishing proof of payment of Rs.1,22,670/- as tax on the invoice value of the subject goods. The payment so made shall be subject to the assessment proceedings initiated against the 4th respondent. It is made clear that this order shall not preclude the respondents, if they so choose, from initiating penalty proceedings in accordance with law.

The Writ Petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

22.02.2016
v v