THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No. 29534 of 2016

Order: **(Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)**

The notice of detention of goods in Form 610, whereby two vehicles belonging to the petitioner were detained, is under challenge in this writ petition.

The petitioner claims to have purchased the subject goods on high seas, and to have transported the same from Krishnapatnam Port Trust to his factory in Anantapur District. While one of the two vehicles was detained before it reached the factory, the other vehicle appears to have been detained after the goods reached the factory, and was thereafter being transported to the petitioner's consignee at Puduchery. It also appears, from the documents placed before us, that, while the petitioner had generated 'E' way bill for one of the vehicles on 20.8.2016 at 7.40 a.m., the goods were detained only thereafter at 8.00 a.m. on the ground that there was no 'E' way bill. It is, however, not in dispute that no 'E' way bill was produced with respect to the other vehicle.

Under Section 45(7)(a) of the VAT Act, 2005 (for short 'the Act'), if the goods are carried without being properly accounted for in the documents referred to in Section 45(2)(b), the competent officer shall collect the tax payable on the goods so carried, and in addition levy a penalty not exceeding two times the amount of tax payable on such goods after giving a reasonable opportunity to the person likely to be affected against the proposed penalty.

While Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would request that the matter be taken up on 6.9.2016, to enable him to obtain instructions, Sri S. Krishna Murthy, learned counsel for the petitioner, expresses urgency on the ground that both the vehicles have been detained at the check post for the past more than ten days.

We consider it appropriate in such circumstances to direct the check post authorities to release the subject goods, and the vehicles, on the petitioner furnishing proof of payment of tax and deposit of twice the amount of tax as security towards penalty. Needless to state that the amount paid by the petitioner towards tax, and the amount deposited as security towards penalty, shall be subject to the assessment proceedings, and the consequential penalty proceedings, if any, instituted against the petitioner, later.

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

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

2nd September, 2016

Note:
Furnish c.c. today.
b/o
Pnb

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Date:2.9.2016

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