THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.19573 OF 2016

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

The petitioner claims to be a Commission Agent for various dealers outside the State of Andhra Pradesh, and to have brought the goods for sale into the State of Andhra Pradesh. It is his case that, since he is not a registered dealer and his turnover is far less than the minimum stipulated under the Act for being registered as a dealer, requiring registration, the respondents were not entitled either to detain or to confiscate the goods.

Sri M.V.J.K.Kumar, learned counsel for the petitioners, would submit that, while some of the goods were accompanied by an invoice, some of the goods were not and, instead of adjudicating the dispute on its merits, it would suffice if the respondents were directed to release the goods on the petitioner paying tax of Rs.14,341/- and furnishing security for a sum equivalent to two times thereof and in addition pay Rs.15,000/- as penalty for failure to file Form 650.

Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would fairly submit that, while the respondents would assess the petitioner to tax and initiate penalty proceedings against him for failure to carry the documents necessarily to be carried in the vehicle, the detained goods could be released on the petitioner furnishing proof of payment of tax of Rs.14,341/- and furnishing security for a sum equivalent to two times thereof in addition to payment of penalty of Rs.15,000/- for failure to file Form 650.

As both the counsel are largely in agreement that the goods can be released on payment of tax, security and penalty, we consider it appropriate to dispose of the Writ Petition directing the respondents to release the goods on the petitioner furnishing proof of payment of tax of Rs.14,341/- and twice the said amount towards security pending completion of assessment and penalty proceedings against him. In addition to the aforesaid amounts, the petitioner shall also furnish proof of payment of Rs.15,000/- as penalty for the transporter's failure to file Form 650. The subject goods shall be released on furnishing proof of payment as aforementioned. Needless to state that the amount paid by the petitioner shall be subject to the assessment and penalty proceedings initiated against him.

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

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

21st June 2016

<u>Note:</u> Issue CC by tomorrow
B/O
RRB