THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.8646 of 2016

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

Heard Sri G.Narendra Chetty, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes and, with their consent, this Writ Petition is disposed of at the stage of admission.

The petitioner's case in short is that, after they had purchased sponge iron lumps from Hospet, Bellari in the State of Karnataka, and while they were transporting the goods to their godown near Bangalore, the vehicle was detained in Thumakunta industrial area within the State of Andhra Pradesh; in the course of transit from Bellari in the State of Karnataka to Bangalore within the same State, the vehicle entered the State of Andhra Pradesh at Rayadurg, and was to exit from Thumakunta border check post; there is no check post at Rayadurg; as such, the petitioner could not secure a transit pass thereat; and as the vehicle was detained, even before the petitioner could obtain a transit pass at Thumakunta industrial estate check post, the action of the respondents, in detaining the vehicle and the goods therein, is illegal.

Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, while fairly stating that the petitioner is a registered dealer within the State of Andhra Pradesh, would, however, contend that the petitioner's factory is located in Thumakunta industrial area; the goods were being transported to the petitioner's godown, under cover of the aforesaid documents, only to give an impression that the goods were being transported from one part of the State of Karnataka to another; if the goods entered the State of Andhra

Pradesh, even in such cases, a transit pass should have been obtained; if, on the other hand, the goods entered the State of Andhra Pradesh, other than in transit, then an e-waybill should have been produced; as the petitioner produced neither of the two documents, the goods were detained; a detention notice was issued at the first instance; and, subsequently, a show case notice dated 14.03.2016 was issued to the petitioner. Learned Special Standing Counsel would submit that, in case the petitioner paid tax on the value of the goods, the respondents would release the goods provided liberty was granted to them to initiate penalty proceedings in accordance with law.

Sri G.Narendra Chetty, learned counsel for the petitioner, readily accepts to such an order being passed. We consider it appropriate, in such circumstances to direct the respondents to release the goods on the petitioner furnishing proof of payment of tax on the value of the goods mentioned in the detention notice. It is made clear that this order shall not preclude the respondents from initiating penalty proceedings against the petitioner, a registered dealer within the State of Andhra Pradesh, in accordance with law after putting them on notice, and after giving them an opportunity of being heard.

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

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

17th March, 2016.

Note:
Furnish C.C. of the order by 18.03.2016.
B/o
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