THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.3810 of 2016

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

Heard Sri P.Girish Kumar, learned counsel for the petitioner, Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, and the learned Government Pleader for Mines & Geology and, with their consent, the Writ Petition is being disposed of at the stage of admission.

The petitioner has invoked the jurisdiction of this Court questioning the action of the second respondent, in detaining the Granite slabs being transported by five vehicles, as arbitrary and illegal and for a consequential direction to release the goods along with the vehicles by setting aside the detention notice dated 04.02.2016. The detention notice dated 04.02.2016 records that the Granite slabs were being transported to Piduguralla without any documents, and were detained at Gamalapadu.

Both Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, and the learned Government Pleader for Mines & Geology, would submit that the vehicle was not accompanied by any documents, and the invoice was only produced subsequently. While the petitioner has transported Granite slabs in excess of 11000 sq.ft. through these five vehicles, the only invoice, enclosed along with the Writ Petition, shows that the petitioner had purchased 3350 sq.ft from M/s Rama Traders, Nalgonda. While details of the source from which the petitioner procured the remaining quantity of Granite slabs is not stated in the Writ Petition, Sri P.Girish Kumar, learned counsel for the petitioner, would submit that they would furnish proof of procurement, for the remaining quantity of Granite slabs also, to the Assistant Director, Mines & Geology, Dachepalli, Guntur District.

Sri S. Suri Babu, learned Special Standing Counsel for Commercial Taxes, would fairly state that no useful purpose would be served in detaining the goods at the check post and, as the petitioner is a registered dealer within the State of Andhra Pradesh, it would suffice if the petitioner is directed to pay the tax due on the invoice value of the goods, and to furnish a bank guarantee for twice the tax amount as penalty as stated in the detention notice itself. Since Sri P.Girish Kumar, learned counsel for the petitioner, expresses readiness to do so, it is wholly unnecessary for us to examine whether Section 45 (7) (a) or Section 45 (7) (b) of the Andhra Pradesh Value Added Tax Act, 2005 is attracted to the facts of the present case.

In view of the aforesaid submission of the learned counsel on either side, we consider it appropriate to dispose of the Writ Petition directing the Assistant Director, Mines & Geology, Dachepalli, Guntur District to permit release of the goods on the petitioner furnishing proof of the source from which they had procured the entire quantity of the Granite slabs now being transported under these five vehicles. On permission accorded by the Assistant Director being produced before the authorities at the check post, and on the petitioner furnishing proof of payment of tax on the invoice value of the goods and their furnishing a bank guarantee for two times tax as penalty, the subject goods and the vehicles shall be released forthwith. The competent authority shall at the earliest, and in any event not later than two months from the date of receipt of a copy of this order, initiate and complete assessment proceedings in accordance with law. It is open to them, if they so choose, to initiate penalty proceedings within two months after the assessment order is passed. In case no penalty proceedings are initiated, within the time stipulated hereinabove, the bank guarantee furnished by the petitioner shall be returned to them.

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

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

11th February, 2016.

<u>Note:</u>

Furnish C.C. of the order by 12.02.2016.

B/o

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