THE HON'BLE THE ACTING CHIEF JUSTICE SRI RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.29116 of 2016

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

Heard Sri K.Srinivas, Learned Counsel for the petitioner, and Sri Shaik Jeelani Basha, Learned Special Standing Counsel for Commercial Taxes (A.P) and, with their consent, the Writ Petition is disposed of at the stage of admission. The notice of detaining the goods in Form 610 dated 21.08.2016 is questioned in this Writ Petition as being arbitrary and illegal.

The said notice dated 21.08.2016 records that the sale bill, delivery note bill and way-bill in Form-X or Form 600 were not found accompanying the goods. Section 45(7)(a) of the A.P.VAT Act, as amended by Act 4 of 2016, stipulates that, where the goods are carried without being properly accounted for in the documents referred in Section 45(2)(b), the officer of the check-post 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 effected, against the proposed penalty. As the petitioner is a dealer in the State of Tamil Nadu, and is not registered as such within the State of Andhra Pradesh, we consider it appropriate to direct the respondents to release the goods and the vehicle on condition that the petitioner pays tax on the invoice value of the goods, and furnishes twice the amount of tax as security towards penalty. Needless to state that the tax so paid, and the amount furnished as security towards penalty, shall be subject to the assessment and penalty proceedings to be instituted against the petitioner.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also disposed of. No costs.

RAMESH RANGANATHAN, ACJ

U.DURGA PRASAD RAO, J

Date:01.09.2016

Note:
Issue C.C. by 02.09.2016.
B/O
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