HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9504 OF 2017

ORDER:

Seizure of vehicle Bolero bearing No. TS 04 UA 9146, in connection with Crime No.22 of 2017 of Nereducharla, Nalgonda District, on the ground that the vehicle is alleged to have been found carrying Black Jaggery and Alum, is challenged before this Court.

It is the case of the petitioner that the petitioner is only a transporter and he has not participated in the commission of excise offence and he being an innocent transporter, who has purchased the vehicle for eking out his livelihood on obtaining loan. It is further submitted that as per G.O.Ms.No.1929, dated 27.12.2006, the tax was exempted on the sale of jaggery and as per the Memo issued by the Government, vide Memo No.47802/Ex.III/1/2016-13, dated 20.12.2010, the Black jaggery or rotten jaggery or any other form of jaggery are viewed as agriculture produce or its bi-products and not to impose restriction on any agriculture produce, particularly on jaggery, black jaggery or rotten jaggery, therefore, the seizure of the vehicle while transporting the jaggery is not legal and valid. It is further submitted that on the direction of the 3rd respondent-Station House Officer, Nereducherla, he approached the 2nd respondent – Deputy Commissioner of Prohibition & Excise, Nalgonda District and expressed his readiness to furnish third party security, equivalent to the value of the above said vehicle, but so far 2nd respondent has not given any response. Hence, the present writ petition.

Having considered the submission made by the learned counsel for the petitioner and the learned Government Pleader and on perusal of the relevant provisions, it may be noted that the jaggery is one of the items which is notified under the Essential Commodities Act,

1955. In the present case, it is the case of the respondents that 20 Quintals of black jaggery and 50 Kgs., of alum are being transported by the petitioner and was intercepted and a case was registered with the Judicial First Class Court at Huzurnagar. In other words, the petitioner is being prosecuted for an excise offence.

Subject to the final outcome of the case and considering the fact that the petitioner had purchased the vehicle in question under a hire purchase agreement, under which he is required to pay monthly instalments, the writ petition is being disposed of directing the respondents to release the seized Bolero vehicle bearing No. TS 04 UA 9146 of the petitioner forthwith on petitioner furnishing a Fixed Deposit Receipt for a sum of Rs.2,00,000/- in favour of the 2nd respondent-Deputy Commissioner, Prohibition and Excise, Nalgonda District, pending finalisation of the Excise Case. Petitioner shall also furnish an undertaking that he will not alienate the vehicle or create any third party interest over it and will not alter its nature, pending disposal of the proceedings before the competent authority.

With the above direction, the writ petition is disposed of. No order as to costs. Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

CHALLA KODANDA RAM, J

Date:17.03.2017.
Note: Dispatch the CC forthwith.
B/o.
Ssv