The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice T.Amarnath Goud

Writ Petition No.40440 of 2017

Dt: 04-12-2017

Between:

M/s.Star Steel and Hardware,
Opp: Power Office, CTM Road,
Madanapalle, Chittoor District,
Rep. by its Proprietor
Shaik Mohammed Ali.

....Petitioner

and

The Deputy Assistant Commissioner (ST)
Madanapalle, Chittoor District and 2 others.

....Respondents

Counsel for the Petitioner: **Mr.G.Narendra Chetty**

Counsel for the respondents: **Mr.S.Suri Babu**
Spl.SC for Commercial Taxes (AP)

The Court made the following:

<u>Order:</u> **(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

This Writ Petition is filed for the following substantive relief:

> "to issue an appropriate Writ, Order or Direction, more particularly in the nature of MANDAMUS declaring that the action of the First Respondent in seizing and detaining the goods (CR Sheets & HR sheets) of the Petitioner during their transit from the Vendors of the Petitioner in Bangalore, Karnataka State to the Petitioner's place at Madanapalle, Chittoor District, A.P., in Vehicle bearing no. AP 04Y 5787, at 10.15 P.M., on 07-10-2017, at Cheekalabailu (Madanapalle-Bangalore Road), even though covered by Tax Invoice issued by the Vendor which also shows collection of IGST @ 18% and E-Way Bill generated by the Vendor, on the sole ground that they are not covered by e-Way Bill of A.P., and further issuing Show Cause Notice in GC No. 10/2017-18, dated 10-10-2017 proposing to impose tax of Rs. 32,857/- + Penalty of Rs. 32,857/- and thereafter issuing Revised Show Cause Notice vide GC No. 10/2017-18, dated 21-10-2017, proposing to confiscate the entire goods by invoking the powers under S. 130(1) of the APGST Act, 2017, and in the alternative giving the option to pay fine of Rs. 65,714/- plus tax of Rs. 32,857/- plus penalty of Rs. 32,857/- when the provisions of the APGST Act are not applicable to inter-state transactions which are governed by the IGST Act, 2017, and the Central Government has not issued any notifications prescribing the documents to be accompanied by the goods during inter-state movement, and even though the First Respondent is not the `proper officer' to invoke the powers under S. 130 (1) of the APGST Act,

> 2017, as without jurisdiction, without authority, without power, contrary to law, facts, violative of the principles of natural justice and illegal and consequently set aside the same and direct the First Respondent to release the said goods to the Petitioner."

At the hearing, Mr.S.Suri Babu, learned Special Standing Counsel for Commercial Taxes (AP), on instructions, submitted that confiscation order was passed on 01-12-2017.

In view of the subsequent event leading to confiscation of seized goods, the cause, with which this Writ Petition is filed, does not survive for adjudication. Therefore, the Writ Petition is dismissed, however, with liberty to the petitioner to avail appropriate legal remedy questioning the confiscation order.

As a sequel to dismissal of the Writ Petition, WPMP.No.50177 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 04-12-2017
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HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते