

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

Writ Petition No.41680 of 2017

DATED:11-12-2017

Between:

Afzal Traders
Rep. by its Proprietor
Pileru, Kondreddigaripalle
Chittoor
Andhra Pradesh
and another ... Petitioners

And

The Commissioner
Department of State Tax
Velagapudi, Amaravathi
Guntur District
Andhra Pradesh
and others ... Respondents



COUNSEL FOR THE PETITIONERS: Mr. A.P. Reddy

COUNSEL FOR THE RESPONDENTS: Mr. S. Suribabu,
Special Standing
Counsel for
Commercial Taxes
(AP)

THE COURT MADE THE FOLLOWING:

ORDER: (*per the Hon'ble Sri Justice C.V. Nagarjuna Reddy*)

This writ petition is filed for a mandamus to set aside proceedings in GC No.13/2017-18, dt.18.11.2017, of respondent No.2 whereby he has confiscated 9900 Kgs. of dry tamarind worth Rs.1,74,900/- along with the lorry.

Though the petitioners have raised several grounds to challenge the confiscation order, the main ground with which we are concerned is that they were not given proper opportunity of claiming their case inasmuch as the show cause notice was issued on 15.11.2017 and the confiscation order was passed on 23.11.2017.

In our opinion, where serious adverse consequences flow out of an action, the aggrieved party is entitled to a proper and reasonable opportunity to explain his case. As this procedure was not followed, the impugned confiscation order is set aside. The petitioners are permitted to submit their objections to the show cause notice within two weeks. Thereafter, respondent No.2 shall consider the objections of the petitioners and after giving them an opportunity of personal hearing, he shall pass a fresh order. Pending passing of the fresh order, respondent No.2 shall release the seized tamarind along with the lorry, if the petitioners furnish bank guarantee for the value of the

tamarind, which shall be subject to the result of the final order that may be passed by respondent No.2.

Subject to the above observations and directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.51704 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

T. AMARNATH GOUD, J

11-12-2017

bnr

