THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.18271 of 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Mines & Geology appearing for the respondents.

In the present Writ Petition the action of the respondents, in seizing the lorry bearing No.AP 27 TW 0006 along with the finished product of Black Granite slabs of 7600 Sq.ft, belonging to the petitioner, and demanding seigniorage fee on the finished product, is under challenge.

According to the learned counsel for the petitioner the issue in the present Writ Petition is squarely covered by the order of this Court, dated 19.09.2013, in W.P.No.27094 of 2013. A copy of the said order is placed on record. This Court, by relying upon the judgment in ***NOVEL GRANIATES LIMITED AND OTHERS v. GOVERNMENT OF A.P. AND OTHERS***[1], allowed the said Writ Petition.

During the course of hearing, the order passed by a Division Bench of this Court, dated 24.02.2016, in W.P.No.2682 of 2016, is placed on record by the learned Government Pleader. A perusal of the said order reveals that the Division Bench, referring to the judgment of this Court in ***SIVA SAI GRANITES, GUNTUR V. GOVERNMENT OF ANDHRA***

[1] 2010 (1) ALD 812

PRADESH (judgment in W.P.No.27094 of 2013 dated 19.09.2013), in the concluding paragraphs, held as under:

> *"In **Siva Sai Granites** (judgment in W.P.No.27094 of 2013 dated 19.09.2013), reliance on which is placed on behalf of the petitioners, a learned Judge of this Court, relying on the earlier judgment in **Novel Granites v. State of Andhra Pradesh**[2], observed that the State Government and its officials were free to inspect and check any premises of a factory/industry where the mineral is stored before it is processed/manufactured, and exercise the power of seizure of mineral before it is processed and converted into a finished product, if it is found that such mineral has not suffered royalty/dead rent; the action of the respondents in insisting on persons, transporting finished products of granite, to show proof of raw granite having suffered seignorage fee, and in seizing lorries in the absence of such proof, was illegal; and, at best, the respondents could check the premises of the manufacturer of the finished product of granite as mentioned in the judgment rendered in **Novel Granites**[2].*
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> *While a person who has purchased finished goods/processed mineral, and is transporting it for his/her own consumption, could possibly be asked to disclose the source from which he had purchased the finished product/processed mineral, he cannot be called upon to produce proof of payment of mineral revenue as what he is transporting is not the minor mineral on which royalty is required to be paid. Such disclosure of the source from which he had purchased the finished products would enable the authorities concerned, in turn, to ascertain from the person who sold the finished products to the petitioner, whether he had used minor minerals in production/ manufacture of the finished product, and if so, to ascertain whether mineral revenue had been paid thereupon. The contention of the learned Government Pleader that the*

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[2] **2010 (1) ALD 812**

> *respondents are entitled to insist on documentary proof being furnished, of mineral revenue having been paid, by such a person, therefore necessitates rejection.*
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> *While Sri P.Girish Kumar, learned counsel for the respondents, would contend, relying on the proviso to Rule 51 of the Rules, that the respondents cannot demand even tax let alone penalty, Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would rely on Section 45(7)(a) of the Act to contend that the respondents have the power to levy penalty also. Ends of justice would be met if the third respondent is directed to accord permission for release of the goods, and the vehicle in which it is carried, immediately upon the petitioner furnishing satisfactory proof of the source from which he had bought these finished granite slabs. The second respondent shall, on the petitioner furnishing proof of payment of tax on the entire value of the goods i.e., 5,969.56 square feet, release the goods forthwith. It is made clear that, in case the second respondent were to initiate penalty proceedings, it is always open to the petitioner to raise all such contentions, in their defence, as is available to him in law".*

According to the learned counsel for the petitioner, despite production of proof of purchase, the respondents have detained the vehicle along with the goods.

On the other hand, it is submitted by the learned Government Pleader that for the first time before this Court the said contention is advanced and no proof was produced before the authorities at the time of taking custody of the vehicle along with the goods.

Having regard to the judgment rendered by the Division Bench of this Court in W.P.No.2682 of 2016, this Writ Petition is also disposed of in terms thereof. It is further made clear that the petitioner herein is entitled to make available the information as to the source of the goods and, on furnishing the said information, as mentioned in the above referred Division Bench judgment, the respondents herein shall release the subject-vehicle along with the goods. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.V.SESHA SAI,J

05th June, 2018

Note:

Furnish C.C. of the order within two days.

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