

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.33825 OF 2018

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri P.Girish Kumar, learned counsel for the petitioner, learned Government Pleader for Industries and Commerce (Andhra Pradesh), and the learned Special Government Pleader for Commercial Taxes (Andhra Pradesh) and, with their consent, the Writ Petition is disposed of at the stage of admission.

The proceedings, impugned in this Writ Petition, is the notice dated 14.09.2018 whereby the petitioner was asked to show cause why action should not be initiated against them to collect normal seinerage fee together with market value of the steel grey colour granite polished slabs for a quantity of 3129 square feet; and why action should not be initiated against them as per G.O.Ms.No.17 dated 29.01.2018. The petitioner's grievance is that, though these goods were being transported from Martur in Prakasam District to Assam, the vehicle was stopped at Vijayawada by the authorities; and both the vehicle, and the goods being transported therein, have been detained on the ground that documentary evidence, relating to payment of normal seigniorage fee was not produced.

While Sri P.Girish Kumar, learned counsel for the petitioner, would submit, not without justification, that the petitioner does not fall within the ambit of a 'mineral dealer'; and he is neither liable to pay normal seigniorage fee in terms of G.O.Ms.No.17, Industries and Commerce (M.II) Department, dated 29.01.2018, nor is he required to carry a transit pass as stipulated under Rule

6 (iv) thereof, these are all contentions which the petitioner can as well urge in its reply to the show cause notice issued by the authorities concerned. Since the petitioner's vehicle has been detained along with the goods, and any delay in adjudication pursuant to the show cause notice dated 14.09.2018, would cause substantial injury to them, we called upon the learned Government Pleader for Industries to ascertain the liability which may be fastened on the petitioner in case the show cause notice is confirmed by a final order. Learned Government Pleader for Industries, on instructions, would submit that a sum of Rs.2.04 lakhs can be imposed on the petitioner.

As the proceedings under challenge is only a show cause notice to which the petitioner can submit a reply, we consider it appropriate to direct the respondents to release the vehicle and the goods on the petitioner furnishing an unconditional bank guarantee from a Nationalised Bank, for a sum of Rs.2.04 lakhs to be kept valid for a period of six (6) months, in favour of the second respondent. On their furnishing such a bank guarantee, the subject goods and the vehicle shall be released forthwith.

The petitioner is also permitted to submit their reply to the show cause notice within two (2) weeks from today. The second respondent shall consider the petitioner's reply, give them a reasonable opportunity of an oral hearing, pass a reasoned order thereafter in accordance with law, and communicate the same to the petitioner. The entire exercise, culminating in a final order being passed and communicated to the petitioner, shall be completed within a period of two (2) months from today. For a period of ten (10) days from the date on which a copy of the final

order is served on the petitioner, the bank guarantee shall not be en-cashed.

The Writ Petition stands disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

20th September 2018

NOTE: Issue CC today
B/O
RRB

