

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM

THE HON'BLE Dr. JUSTICE ANITA SUMANTH

W.P.No.332 of 2019
and
W.M.P.Nos.329 & 330 of 2019

TVL.Archana Industries,
Rep by its Managing Partner,
P.B.No.4003707, Avinashi Road,
Coimbatore-641018 ... Petitioner

--Vs--

1. The Deputy State Tax Officer (ENF),
Odanthurai Roving Squad,
Coimbatore.
2. The Assistant Commissioner (ST),
Aavinashi Assessment Circle,
Coimbatore-18 ... Respondents

PRAYER in WPs: Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the 1st respondent in Reference No.5/2018-19/Odanthurai Roving Squad, dated 28.11.2018 and consequential Order No.5/2018-19, dated 28.11.2018 in Form GST MOV-02 and quash the same and further direct the 1st respondent to release the consignment detained on 28.11.2018.

For Petitioner : Ms.C.Rekha Kumari

For Respondents : Mr.Dhana Madhri
Government Advocate (Taxes)

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O R D E R

This writ petition has been filed praying for a quash of the order of the 1st respondent in reference no.5/2018-19 dated 28.11.2018 and consequential order no.5/2018-19 of even date in Form GST MOV-02 and for release of the consignment tendered on 28.11.2018.

2. When the matter had come up for admission this Court had passed an order noting the submissions of the petitioner to the effect the goods being transported were not for sale but were for the purpose of effecting job-work which had been reflected in E-way bill.

3. In the light of the aforesaid, this Court, by order dated 07.01.2019, directed the release of the goods upon the petitioner furnishing a bank guarantee to the tune of Rs.4,06,116/-.

4. When the matter came up for hearing subsequently, learned counsel for the respondent produced a memo bearing Reference No.5/2018 dated 23.01.2019 issued by the Deputy Commissioner (ST), Enforcement, Coimbatore-18 issued by Deputy State Tax Officer(ST) stating as follows:

This is to hereby inform that since the vehicle with goods has not been detained, the question of release of vehicle with goods does not arise. Besides as the case is still pending before the Honourable High Court at Chennai, final orders will be passed based on the direction of the Honourable High Court.

5. In the light of the aforesaid and the categorical statement of the State Officer to the effect that the goods detained in question stands released, the impugned order dated 28.11.2018 restraining the petitioner for moving goods automatically fails.

6. As far as the Bank Guarantee is concerned, learned counsel for the respondent confirms that pursuant to the detention no proceedings have been issued thereafter by the respondent. In such circumstances, there is no justification for the Department to withhold the Bank Guarantee furnished by the petitioner pursuant to order of this Court dated 07.01.2019. The Bank Guarantee shall be released forthwith. Needless to say, the respondents are at liberty to initiate such proceedings in accordance with law as may be deemed necessary.

7. This writ petition stands disposed of in the above terms. Consequently, connected miscellaneous petitions are closed with no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ska

To

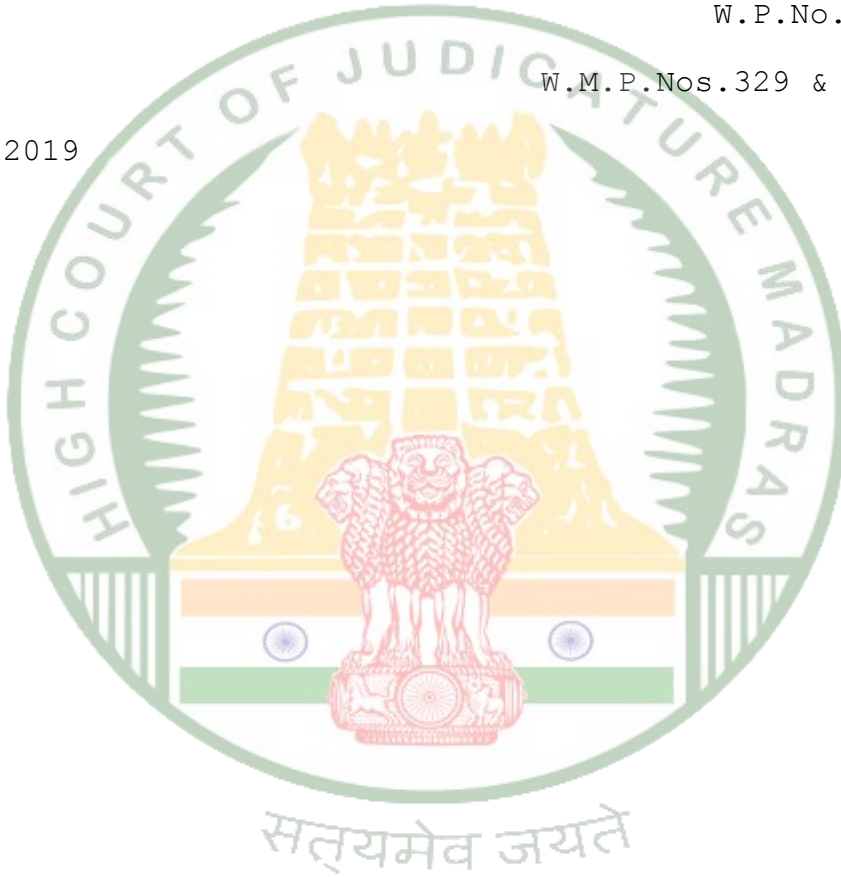
1. The Deputy State Tax Officer (ENF),
Odanthurai Roving Squad,
Coimbatore.
 2. The Assistant Commissioner (ST),
Aavinashi Assessment Circle,
Coimbatore-18
- +1 cc to M/s.C.Rekha Kumari, Advocate Sr.No.14786

W.P.No.332 of 2019

and

W.M.P.Nos.329 & 330 of 2019

BR(CO)
CSL/23.04.2019



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