IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.4815 OF 2021
AND
WMP.NO.5437 OF 2021

Tarmal Industrial Supply Company,
Represented by its Proprietor,
New No.83/10, Iyyappa Chetty Street,
Mannady, Chennai-600 001. ... Petitioner

Vs.

The State Tax Officer,
Vellore & T.V.Malai,
Roving Squad (SPL),
Office of the Joint Commissioner (ST) (INT),
Adjudication Cell, Vellore,
No.4, Bharathiar Salai, Fort Round Road,
Vellore - 632 001. ... Respondent

Prayer:
Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for records of the Respondent in Order dated 17.10.2020 in Order No.812/2020-21 and quash the same and consequently direct the Respondent to refund of a sum of Rs.1,82,860/- to the Petitioner.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.ANR.Jayaprathap
Government Advocate

O R D E R

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.ANR.Jayaprathap, learned Government Advocate for the respondent.

2.The petitioner challenges order of the sole respondent i.e. the State Tax Officer, Vellore and T.V.Malai, Roving Squad (SPL) dated 17.10.2020 and consequently seeks a direction to the respondent to refund an amount of Rs.1,82,860/-, which has been collected as penalty. Not just the order but even the notices leading to the passing of the impugned order, are rife with errors. The show cause notice issued prior to passing of the impugned order does not stipulate even basic details such as the date and time of hearing and merely states DD/MM/YYYY at HH/MM, without filling in the fields. The requirement of passing a speaking order has been entirely frustrated in so far as in the field marked 'speaking order', there are no reasons set out for the conclusion arrived at by the authority. Manifest non application of mind is evident.

3. Having said so, and though the show cause notice and the impugned order are entirely non-speaking and contain blanks, which vitiate them in full, the statement of the driver recorded in Form-GST MOV-01 contains the observation that 'the goods moved from Chennai to Ambur, which is unregistered place of buyer as per invoices the destination place is mentioned as Ambur but as per E-Way bill delivery address mentioned as Bhosari, Maharashtra.'

4.My attention is also drawn to the delivery challan at page-22 of the document compilation to establish the destination of the consignment. The detention order under Section 129(3) of the Act also contains the reasons for detention of the goods as aforesaid.

5.In the light of the above prima facie discrepancy in documentation, I am inclined to grant liberty to the respondent to issue notice afresh, hear the petitioner and pass a speaking order in regard to the levy of penalty, de novo. Let this exercise be completed within a period of six (6) weeks from today.

6.This writ petition is allowed however, granting liberty to the respondent as above and the impugned order is quashed. Connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs

To

The State Tax Officer,
Vellore & T.V.Malai,
Roving Squad (SPL),
Office of the Joint Commissioner (ST) (INT),
Adjudication Cell, Vellore,
No.4, Bharathiar Salai, Fort Round Road,
Vellore - 632 001.

+1cc to the Special Government Pleader (T), S.R.No.24099

W.P.No.4815 of 2021 and
WMP.No.5437 of 2021

SR-II(CO)
CS/29/06/2021