IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP.No.24157 of 2021
and
WMP.No.25482 of 2021
[Video Conferencing]

M/s.Sachra Metals
Represented by its Proprietor
Poochi Selvaraj
Office at No.499, (Old No.241)
Mint Street, Chennai – 600 001. ...Petitioner

-Vs.-

State Tax Officer RS-VIII
Intelligence-II
No.1, Greams Road, Thousand Light,
Chennai – 600 006. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to seizure of the vehicle of the petitioner being Lorry bearing Registration No.TN-04-AV-1063 along with the Goods under FORM GST MOV-02, dated 08.10.2021 as ultra virus and quash the same and consequently directing the respondent to release the vehicle.

For Petitioner : Mr.V.Lokesh Kumar

For Respondents: Ms.Amirtha Poonkodi Dinakaran,
Government Advocate

ORDER

It is the case of the petitioner that the petitioner's vehicle was intercepted along with Goods on 08.10.2021. The vehicle merely accompanied a delivery challan to show as if the Goods were shifted from the Godown at Thiruverkadu to their shop in the Mint Street, Chennai. The vehicle and the consignment did not accompany E-Way bill as is required under the provisions of the Act.

2.It is submitted by the learned Government Advocate appearing on behalf of the respondent that as soon as the vehicle was intercepted with the consignment 08.10.2021, the vehicle was abandoned by the driver and therefore, notice was affixed on the vehicle on 09.10.2021. The learned Government Advocate appearing on behalf of the respondent would further submit that though the vehicle was seized as early as 08.10.2021, a fresh E-Way bill dated 09.11.2021 was generated for the same vehicle which was under the custody of the respondent which is impermissible.

3.It is further submitted by the learned Government Advocate that the petitioner has rushed to the Court without answering the show cause notice dated 03.11.2021, which is the very same notice that was affixed on the vehicle on 09.10.2021.

4.Prima facie it appears that there was an attempt to evade tax in as much as the vehicle containing the consignment did not accompany proper invoice and E-Way bill. Considering the same, I direct the respondent to arrive at the tax liability and penalty within a period of 15 days from today. The petitioner is directed to pay the aforesaid amount to be arrived by the respondent as a condition for release of the vehicle and the consignment.

5.As and when the aforesaid tax is determined in the order to be passed by the respondent is complied by the petitioner, the vehicle and the consignment shall be released. Needless to say that, the amount to be paid by the petitioner is subject to the final outcome of any appellate proceedings which the petitioner may choose to opt. The petitioner is given liberty to appear before the respondent and submit his case.

6.The Writ Petition is disposed of with the above observations. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

pgp
To
State Tax Officer RS-VIII
Intelligence-II
No.1, Greams Road, Thousand Light,
Chennai - 600 006.
+1cc to M/s.V.Lokeshkumar, Advocate, S.R.No.69710
+1cc to the Special Government Pleader, S.R.No.69882

W.P.No.24157 of 2021

EV(CO)
RGA(12/01/2022)