IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.25719 OF 2021
AND
W.M.P.NO.27161 OF 2021

(Through Video Conferencing)

M/s.Deepam Roadways,
Represented by its Proprietor,
Uma Maheswar,
Office at No.56, Kanthappa Chetty Street,
Parrys, Chennai - 600 001.

... Petitioner

Vs

1. The Assistant Commissioner (ST),
   Adjudication Intelligent-I,
   No.1, Greams Road, Thousand Light,
   Chennai - 600 006.

2. The State Tax Officer RS-VII,
   Intelligence-II,
   No.1, Greams Road, Thousand Light,
   Chennai - 600 006.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondents relating to seizure of vehicle Lorry bearing Registration No.TN-22-BZ-3435 along with the Goods and order of detention passed by the first respondent dated 13.10.2021 vide GST FORM MOV 06 as Ultra Virus and quash the same and consequently direct the respondents to release the Lorry bearing Registration No.TN-22-BZ-3435 along with the Goods.

For Petitioner : Mr.V.Lokeshkumar

For Respondents : Ms.Amirta Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondents.

2. The petitioner has challenged the impugned order of the respondents dated 13.10.2021 detaining the goods carrier vehicle bearing Registration No.TN-22-BZ-3435 in which goods were being loaded belonging to the petitioner as it did not accompany a proper invoice or E-way bill.

3. It is the case of the petitioner that after the seizure of the goods vehicle, a notice under Section 129(3) of the Central Goods and Services Tax Act, 2017 and Tamil Nadu Goods and Services Tax Act, 2017 was issued called which upon the petitioner to show cause as to why a sum of Rs.2,15,778/- and an equal amount of penalty should not be recovered and imposed from the petitioner under the provisions of the respective Acts.

4. It is submitted that a notice of personal hearing was fixed on 29.10.2021 in terms of a notice dated 25.10.2021. The learned counsel for the petitioner further submits that the petitioner was unable to attend the personal hearing, merely a detention order has been passed on the same date. The learned counsel for the petitioner submits that the petitioner is willing to pay/deposit the tax.

5. Opposing the prayer, the learned Government Advocate for the respondents submits that the petitioner has an alternate remedy by way of an appeal before the Appellate Commissioner under Section 107 of the CGST Act, 2017 and the TNGST Act, 2017.

6. The matter would require further adjudication by the appropriate authority. Considering the fact that the vehicle has been detained since 13.10.2021, this Writ Petition is disposed by directing the petitioner to pay the disputed tax proposed in the notice and to pay 50% of the proposed penalty within a period of two weeks from the date of receipt of a copy of this order.

7. If such amount is paid, the respondents shall release the goods vehicle to the petitioner. The petitioner is given liberty to workout the remedy on merits before the Appellate Commissioner under Section 107 of the CGST Act, 2017 and TNGST

Act, 2017 who shall consider the same on merits. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

arb/nst

To

1. The Assistant Commissioner (ST),
   Adjudication Intelligent-I,
   No.1, Greams Road, Thousand Light,
   Chennai – 600 006.

2. The State Tax Officer RS-VII,
   Intelligence-II,
   No.1, Greams Road, Thousand Light,
   Chennai – 600 006.

+1cc to Mr.V.Lokesh Kumar, Advocate, S.R.No.63565

+1cc to the Special Government Pleader(Taxes), S.R.No.64183

W.P.No.25719 of 2021
and
W.M.P.No.27161 of 2021

SSV(CO)
RLP(06/12/2021)