IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NOS.7378 & 7384 OF 2022
AND
W.M.P.NOS.7396 & 7397 OF 2022

Tvl.Asian Paints Limited,
GSTIN : 33AAACA3622K1Z2
Represented by its Authorized Signatory,
Plot No.E6-F13, Sipcot Industrial Park,
Sriperumbudur, Kancheepuram – 602 105.
... Petitioner in both Wps

Vs

1. The Assistant Commissioner (ST)
   Adjudication, Intelligence-I,
   No.1, Greams Road,
   6th Commercial Taxes Annex Building,
   Chennai – 600 006.

2. The Deputy State Tax Officer,
   Roving Squad – III,
   Manjabakkam Toll,
   Chennai.
... Respondents in both Wps

Prayer in WP.No.7378 of 2022 : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari call for the records of the impugned Penalty Notice in Form GST MOV – 07, No.456/2021-22 dated 21.03.2022 from the files of the first respondent herein, quash the same.

Prayer in WP.No.7384 of 2022 : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus call for the records of the impugned order of Detention in Form GST MOV-06 dated 21.03.2022 from the files of the first respondent herein, Quash the same, and direct the respondents herein to release the detained goods (Titanium Dioxide Rutile) along with the conveyance No.TN-07-AV-7881 by the respondents herein at Majambakkam Toll.

(In both WPs)

For Petitioner : Mrs.Aparna Nandakumar

For Respondents : Mr.R.Siddharth
Government Advocate

COMMON ORDER

The issue raised in these writ petitions since is common, with the consent of the learned counsel appearing for both sides, these writ petitions were heard together and are being disposed of by this common order.

2. A vehicle bearing Registration No.TN07 AV 7881 was intercepted by the respondent Revenue on 15.03.2022 at Manjambakkam Toll and at the time of interception, the driver or the person in charge of the vehicle had given a statement which was recorded on 15.03.2022.

3. During the interception, it seems to have been found that, in one of the documents that, E-Way Bill Part B has not been filled up, therefore, Form GST MOV-01 & 02 was issued, the tax payer i.e., the petitioner had given reply that the goods are transported for a distance of upto 50 Kms within the State from the place of business of the consignor to the place of business of the transporter for further transportation. Therefore, the transporter may not furnish the details of conveyance in Part-B of Form EWB-01.

4. However, not accepting the same, there was a detention order passed by the respondent and penalty proceedings has been initiated for adjudication which were issued on 21.03.2022, challenging those orders, these writ petitions have been filed with the respective prayers.

5. Heard Mrs.Aparna Nandakumar, learned counsel appearing for the petitioner, who, though had made a detailed submissions on various aspects, which includes the interpretation sought to be given on the words “the business premises”, of the petitioner by citing some of the provisions of the GST Act, this Court feels that, those issues can be canvassed before the Adjudicating Authority as to whether the benefit sought for by the petitioner that, the goods were transported only for the purpose of unloading and reloading into another place for the purpose of reaching the destination i.e., the factory or premises of the petitioner and therefore, the absence of the Entry in Part B in E-Way Bill is not intentional one and whether

that can be condoned or not, is altogether a question to be gone into by the Adjudicating Authority, before whom, it is open to the petitioner to raise all these points which have been raised before this Court for consideration. If those points are raised before the Adjudicating Authority by giving necessary details and inputs in support of the same, that can very well be considered by the Adjudicating Authority objectively and thereafter an order to that effect can be passed.

6. For this arrangement, the learned counsel appearing for the respondents may not have serious objection, because, it is the domain of the Adjudicating Authority to decide the merits of the case in accordance with law, for which, after giving an opportunity of being heard to the petitioner, that issue can be cumulatively decided by the Adjudicating Authority, he contended.

7. Having considered these submissions made by the learned counsel appearing for both sides, this Court is inclined to dispose of these writ petitions with the following orders:

> That the petitioner is relegated to go before the Adjudicating Authority, where, it is open to the petitioner to raise the points and grounds urged before this Court in support of the challenge made in these writ petitions. If such grounds are urged with supporting documents and input to be supplied in this regard by the petitioner, the same shall be considered objectively by giving an opportunity of being heard to the petitioner or his counsel and thereafter, decide the same by considering the circumstances of the case to be projected by the petitioner without passing a routine mechanical order in this case and accordingly pass the final order within a period of two weeks from the date of receipt of a copy of this order.

8. With these directions, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Assistant Commissioner (ST)
   Adjudication, Intelligence-I,
   No.1, Greams Road,
   6th Commercial Taxes Annex Building,
   Chennai - 600 006.

2. The Deputy State Tax Officer,
   Roving Squad - III,
   Manjabakkam Toll, Chennai.

+2ccs to M/s.Aparna Nandakumar, Advocate, S.R.No.20899

+1cc to the Special Government Pleader(Taxes), S.R.No.21477

W.P.Nos.7378 & 7384 of 2022

MG(CO)
RLP(31/03/2022)