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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2022

CORAM :

THE HON'BLE MRS.JUSTICE S.ANANTHI

W.P.No.11546 of 2022

and

W.M.P.Nos.11024, 11025 and 11027 of 2022

M/s.T.V.H.Express

Represented by its

Proprietrix Mrs.Sakila Begam.M

No.2/644-4, Indra Nagar Second Street,

Near ICICI Bank, Tirupur - 641 603.

...Petitioner

Vs.

The State Tax Officer

Adjudication Wing, Intelligence

Erode Division, Erode.

...Respondent

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent in Order No.19/2021-2022, dated 17.03.2022 passed under Section 129(3) of the Tamil Nadu Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017 and quash the same as passed without considering the objections dated 15.03.2022 filed by the petitioner and also passed contrary to Section 129(1)(b) of the Tamil Nadu Goods and Services Tax Act, 2017 and Central Goods and Services Tax Act, 2017 and further direct the respondent to release the detained goods to the petitioner without imposing any condition of payment of penalty.

For Petitioner : Mr.P.Rajkumar

For respondent : Mr.V.Prashanth Kiran,
Govt. Advocate (Tax)

ORDER

This Writ Petition has been filed by the petitioner challenging the proceedings of the respondent in Order No.19/2021-2022 dated 17.03.2022 passed under Section 129(3) of the Tamil Nadu Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017 and to quash the same as passed without considering the objections dated 15.03.2022 filed by the petitioner and also passed contrary to Section 129(1)(b) of the



Tamil Nadu Goods and Services Tax Act, 2017 and Central Goods and Services Tax Act, 2017 and further direct the respondent to release the detained goods to the petitioner without imposing any condition of payment of penalty.

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2. The case of the petitioner is that, the petitioner being a transporter, had transported hosiery garments belonging to M/s.Star Handlooms, Tirupur, and the said garments were detained by the respondent. Even though the petitioner-M/s.T.V.H.Express, produced the lorry receipt for the transport of the said goods, and that the invoices were also produced before the respondents, it is the grievance of the petitioner that the goods were detained by the respondent.

3.It is further stated by the petitioner that the respondent earlier issued an order of detention on 04.03.2022 under Section 129(1) of the TNGST Act, 2017 and CGST Act, 2017, in Form GST MOV-06. Thereafter, the respondent issued notice dated 10.03.2022 under Section 129(3) of the TNGST Act, 2017 and CGST Act, 2017 alleging that the goods-vehicle, when intercepted, was possessed of 58 bundles of hosiery garments, but the same were without valid documents. It is further stated in the notice, dated 10.03.2022 that the driver of the petitioner had not produced the relevant documents related to the goods in conveyance. According to the petitioner, they have produced invoices and lorry receipts for movements of the goods from Tiruppur to Hyderabad, but however, the respondent valued all the 58 bundles of the hosiery garments at Rs.20,000/- in respect of the goods mentioned therein and arrived at the total value of Rs.11,60,000/- and proposed to levy penalty of Rs.5,80,000/- under SGST Act and penalty of Rs.5,80,000/- under CGST Act. The petitioner was called upon to file their objections to the said show cause notice, dated 10.03.2022, and the objections, dated 15.03.2022 were received by the respondent. According to the petitioner, the respondent did not verify the detailed consignment. Thereafter, the impugned order, dated 17.03.2022 was passed by the respondent, against which, the present Writ Petition is filed for the relief stated supra.

4.The learned Standing Counsel takes notice for the respondent and objected the case of the petitioner.

5.Heard both sides and perused the materials available on record.

6.It is seen that, as against the impugned order, dated 17.03.2022, there is an appeal remedy available before the appropriate authority. It is clear from the records that the petitioner has still not filed any appeal as against the impugned order.



7. Accordingly, without going into the merits and factual aspects of the matter, this Court directs the petitioner to file appeal under the provisions of the TNGST Act, 2017, as against the impugned order, dated 17.03.2022. On receipt of such appeal, the appellate authority is directed to dispose of the same, on merits and in accordance with law, within a period of one month from the date of filing of the appeal by the petitioner, after giving an opportunity of hearing to the petitioner and concerned persons, if any.

8. With the above observations and direction, the Writ Petition is disposed of. Consequently, W.M.Ps. are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cs/drm

To

The State Tax Officer
Adjudication Wing, Intelligence
Erode Division, Erode.

+1cc to Mr.P.Rajkumar, Petitioner Advocate, S.R.No.31090

+1cc to the Special Government Pleader, (Taxes)
Respondent Advocate, S.R.No.31143

W.P.No.11546 of 2022

NR(CO)
RGA(06/05/2022)