IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.15967 & 15969 OF 2022
&
WMP.NOS.15291 & 15289 OF 2022

M/s.Santhosh Motors,
Rep. by its Partner-V.Santosh
No.2/177-B, Avinashi Road,
Chinnaimpalayam,
Coimbatore-641062
Coimbatore

... Petitioner in both WPs

Vs.

The Assistant Commissioner (ST),
Adjudication Intelligence-I,
Chennai-600006

... Respondent in both WPs

Prayer in WP.No.15967 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records on the file of the respondent in impugned proceedings vide order of detention in Form GST MOV-06 dated 13.06.2022 and the consequential notice in Form GST Mov-07 dated 14.06.2022 and quash the same.

Prayer in WP.No.15969 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records on the file of the respondent in impugned proceedings vide order of detention in Form GST MOV-06 dated 08.06.2022 and the consequential notice in Form GST Mov-07 dated 08.06.2022 and quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The petitioner challenges orders of detention dated 13.06.2022 and 08.06.2022 and show cause notices dated 14.06.2022 and 08.06.2022 issued by the respondent authorities detaining vehicles bearing no.TN 37 DD 0147 carrying two excavators bearing Sl. No.22SE1410130001 and 22SE141127791.

2. The submissions of the learned counsel for the petitioner are that orders had been placed upon it for supply of hydraulic excavators for the purpose of sale within the State. The excavators are manufactured and procured from Pune and, according to the petitioner, they have suffered Integrated Goods and Service Tax (IGST) at 18% thereupon.

3. While in transit, the vehicle was intercepted by the official respondents on 07.06.2022. Despite the petitioner having been supplied all documents, orders of detention have been passed.

4. The reasons set out for such detention is as follows:

> (5.1) Goods delivering to MKP Earth Movers was a unrelated place (unregistered place of business) - 1st Invoice delivery in Saligramam.
>
> (5.2) 2nd Invoice for demonstration purpose, but as per driver statement it is for sale after 1 week they will make the bill after payment made.

5. As regards the second invoice to the effect that excavator was moved only for demonstration purposes, learned Additional Government Pleader was asked to obtain instructions and has confirmed on written instructions in R.C.3078A/2022 dated 27.06.2022, that excavator bearing serial no. 22SE141127791 is meant for demonstration purposes only and that documents to evidence the same are also available along with the consignment.

6. Hence, there is no justification for the detention memo and show cause notice issued in respect of the aforesaid excavator and the same is quashed. W.P.No.15967 of 2022 is allowed as a consequence that excavators bearing serial no. 22SE141127791 shall be released within 24 hours from now.

7. Coming to the second writ petition, the explanation set out in defence of the impugned order is that though the invoice undoubtedly contain the name of a registered dealer as recipient, the place of business set out does not tally with the place of business, as per the records of the Department.

8. The Court, prima facie, appreciates the apprehension of the respondent in this regard as such a practice might well would lead to a situation where a registered dealer may lend his name for supply of material at various locations.

9. Be that as it may, learned counsel for the petitioner would submit that there is no requirement under the Act or connected Rules for the consignment to be received only at an authorised place of business. In fact, there are several instances where the consignee is a registered dealer at a registered place of business, but the place of delivery is stated to be an alternate address.

10. Seeing as the matter is pending only at the stage of response to the show cause notice, it would be appropriate that the petitioner furnish its explanation to the show cause notice. Let the same be considered by the respondent and orders passed within seven days from date of receipt of objections/reply, in accordance with law.

11. W.P.No.15969 of 2022 stands disposed as above. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Adjudication Intelligence-I,
Chennai - 600 006.

+2ccs to Mr.R.Hemalatha, Advocate, S.R.Nos.41153, 41154

+1cc to the Special Government Pleader(Taxes), S.R.No.41555

W.P.No.15967 & 15969 of 2022 &
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AD(CO)
RLP(04/07/2022)