IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.A.Nos.2313 of 2022
and
W.M.P.No.17705 of 2022

TCI Freight
(A Div. of Transport Corporation of India Ltd.)
Represented by its Authorized Signatory
Regional Office at
No.92, 1st Floor,
Gee Gee Crystal Building,
Dr.Radha Krishna Salai,
Mylapore, Chennai - 600 004. ...Appellant

Versus

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

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by the learned single Judge dated 25.08.2022 passed in W.P.No.18753/2022

For Appellant : Mr.Aparna Nandakumar

For Respondent : Mr.C.Hansharaj,
Additional Government Pleader (Tax)

J U D G M E N T

The appellant has come forward with the present appeal challenging the order in W.P.No. 18753/2022 dated 25.08.2022.

2. The appellant is a Logistic Service Provider and also a Transporter. The appellant has filed the appeal against the impugned order dated 25.08.2022 passed by the learned single Judge in W.P.No.18753/2022. By the impugned order, the learned single Jude has also disposed of the two other writ petitions.

3. The facts on record indicate that the petitioner was transporting goods on behalf of M/s. Panasonic Carbon Pvt.Ltd. The consignor was transporting Carbon Electrodes from Madhavaram Hub, Chennai to M/s.Eveready Industries India Ltd., in Assam. The goods were to move

through Tada Andhra Pradesh where the Consignor, Panasonic Carbon Limited was located. On 26.06.2022, the appellant's vehicle carrying the consignment, was intercepted at Redhills, Tamilnadu. The appellant's vehicle carrying consignment of M/s. Panasonic Carbon India Ltd., Tada meant for Eveready Industries India Ltd., Assam was seized and thereafter, notices under Section 129 of Central GST Act, 2017 were issued. Thereafter, notice in Form-6 & 7 dated 27.06.2022 was issued to M/s. Panasonic Carban India Ltd. It is, at this stage, the appellant rushed to this Court and filed W.P.No.18753 of 2022 which has been dismissed by the learned single Judge with certain observations as detailed below.

> *" 20. Considering the matter in full conspectus, the bench concluded that ITAT is not a Court but it exercises judicial powers that have the widest amplitude. Thus, the conclusion was that the Tribunal must be held to have power to grant stay and such power was incidental and necessarily to its appellate jurisdiction. The ratio of the aforesaid order would be fully applicable to the present scenario as well.*

4. Learned counsel for the appellant submits that in the meanwhile, final detention order in Form MOV-09 & 10 came to be issued on 19.07.2022 and served on the appellant on 21.07.2022. Aggrieved by the

same, the appellant has also filed a statutory appeal before the Appellate Commissioner in Appeal No.396/2022 after making mandatory pre-deposit of 25% in terms of amended Section 107. Learned counsel for the appellant would submit that the observation in the impugned order would come in the way of the maintainability of the appeal filed by the appellant in Appeal No.396/2022. Learned counsel for the appellant would also submit that during the interregnum, the goods and lorry has also been released on 26.09.2022.

5. Learned counsel for the respondent opposed the present writ appeal and submit that the writ appeal is academic and liable to be dismissed. That apart, it is submitted that the appellant being a Logistic Company, whose interest is only confined to vehicle used for transport, cannot espouse the cause of the consignor or the consignee. Therefore, the writ petition filed by the appellant is misconceived which has been rightly rejected.

6. We have considered the arguments advanced by the learned counsel for the appellant and the learned counsel for the respondent.

7. We are of the view that no useful purpose will be served for delineating the substantial issue of law as the issue is academic at this point of time, as the goods have already been released. However, we make it clear

that since the appeal is filed before the Appellate Commissioner together with mandatory pre-deposit as contemplated under section 107 of the Central GST Act, 2022, we leave all the issues open to be canvassed before the Appellate Tribunal. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.V.N., J.)　　(C.S.N., J.)
18.10.2022

Internet : Yes
Index : Yes / No
vsi

To
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