IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.11.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.29281 of 2022
and WMP Nos.28573, 28574 and 28576 of 2022

M/s.DCM Shriram Limited
represented by its Authorised Signatory
Mr.Sindha Mohammed Fayaz

... Petitioner

Vs

State Tax Officer – 1 (INT)
Adjudication Cell,
Vellore Division,
Vellore, Tamil Nadu.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order dated 26.10.2022 issued in GND No.1420/22-23 passed by the respondent and quash the same.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

O R D E R

Mr.V.Prashanth Kiran, learned Government Advocate accepts notice for the respondent and is armed with instructions to enable final disposal of this matter.

2. The petitioner is a company that is engaged in the business of manufacture of UPVC windows. The petitioner had entered into a transaction for supply of goods to an individual, a registered dealer under the provisions of the Goods and Services Tax Act, 2017 (in short 'Act'), whose place of business is situate at 37/1, Aga Abbas Ali Road, Ulsoor, Bangalore – 560 001 (Consignee).

3.The Consignee had, in turn, entered into a transaction for sale/delivery of goods to M/s.Signature Groups at No.36/3, Old No.578, Vasavi Avenue, Bangalore – 560 041. The transaction was arranged as a Bill to – Ship to transaction, in terms of which, while the invoice reflects the consignee as the taxable entity in the transaction for administrative and logistical purposes, the delivery of the consignment would be to a third party destination, in this case, the location of Signature Group.

4. The goods came to be intercepted and were detained under an order of detention dated 19.10.2022. Form GST-MOV-01, being an order of detention was issued, in terms of which, the reason for detention was set out as *'Goods*

(UPVC window) moved from Kanchipuram to Karnataka. Ship to Address is unregisered person. Hence GDN Issued.'.

5. In response to notice under Section 129(3) issued to the petitioner, the petitioner explained that the transaction was arranged as a bill to – ship to transaction, which necessitated disclosure of only the registration details of the consignee. It is not necessary statutorily, that the registration details of the ultimate consumer are set out in the e-way bill.

6. Incidentally, Signature Groups is also stated to be registered, though, admittedly, the GSTN number does not figure in the e-way bill. The reply dated 21.10.2022 appears to have handed over to the respondent officer only on 26.10.2022 and has come to be rejected for the same reason for which the goods were detained, the officer saying cryptically '*Ship to address is unregistered person and GST Number is not mentioned in tax invoice.'*. Hence, this Writ Petition challenging impugned order dated 26.10.2022.

7. Mr.Prashanth draws attention to Rule 46 of the Central Goods and Services Tax Rules, 2017 (in short 'Rules') which deals with the subject of tax invoice. He would point out that the tax invoice referred to in Section 31 of the Act shall, mandatorily contain the following particulars among other particulars.

> *'46. Tax invoice*
>
> ....

(d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more

........'

8. Thus, according to him, the failure to have mentioned the unique Identiy Number/GSTN number of the recipient would be fatal to the transaction and the detention was proper.

9. I disagree. It is true that Rule 46 require the tax invoice to reflect the GSTN/Unique Identity Number of the recipient. However the said Rule has not taken into account the concept of a bill to – ship to consignment. The statutory declarations that is, the tax invoice and e-way bill made in this case reveal the following sequence of events:

Tax Invoice:

Details of Recipient (Billed To): ***Customer Code 175712***	***Details of Consignee (Shipped To):*** ***Customer code 195408***	***Supplier/Godown Address***
Legal Name: Syeda Saleema Arfa Trade Name: SIGNATURE GROUPS No.36/3 Old 578, Vasavi Avenue	Legal Name: Sabah Irshad Ahmed Trade Name:SABAH IRSHAD AHMED 001,#37/1, Aga Abbas All Rd, Ulsoor, B Bangalore, Karnataka (29),	FBS-Chennai A UNIT OF DCM SHRIRAM LTD. Plot no.1 Area III, CDMA Ind. Area, Maramalai CHENNAI, Tamil Nadu

Details of Recipient (Billed To): *Customer Code 175712*	*Details of Consignee (Shipped To):* *Customer code 195408*	*Supplier/Godown Address*
Bengaluru, Karnataka (29), 560041 PAN No.:BROPA3469D GSTIN/UIN No.:29BROPA3469D 1ZO Place of Supply Karnataka (29)	560001	(33), 603209 MSC/SO:9001091366/90 06098271 HSN/SAC Desc.: DOORS, WINDOWS

E-way Bill

From	*To*
GSTIN : 33AAA CD009 7R1ZE	GSTIN/UIN No.:29BRO PA346 9D1ZO
DCM Shriram Limited	SIGNATURE GROUPS
TAMIL NADU	KARNATAKA
Dispatch From:	::Ship To::
Plot no.1 Area III, CDMA Ind. Area, Maramalai Nagar, Kancheepuram	001, #37/1, Aga Abbas Ali Rd, Ulsoor Bangal
CHENNAI	Bangalore
CHENNAI TAMIL NADU – 603 209	Bangalore, KARNATAKA-560001

10.The petitioner has made a full disclosure in regard to the purchaser, including the GST particulars, address and PAN number. The prescription under Rule 46 is thus fully satisfied. In addition, the particulars of the consignee are also set out and in my considered and categoric view, this limb of the transaction is not bound by the vigour of the procedure set out under the Act and Rules. It would have been an entirely different matter, had the respondents suspected the transaction as being a method to avoid tax. However, what has transpired is that the respondents have simply lost sight of the bill to – ship to mode of doing business.

11.This aspect of the matter has been clarified in the response to the 'frequently asked questions' available on the official website of the Goods and Services Tax Department. The relevant query and response thereto, is extracted below:

> *'How to handle "Bill to" – "Ship to" invoice in e-way bill system?*
>
> *Some times, the tax payer raises the bill to somebody and sends the consignment to somebody else as per the business requirements. There is a provision in the e-way bill system to handle this situation, called as 'Bill to' and 'Ship to'.*
>
> *In the e-way bill form, there are two portions under 'TO' section. In the left hand side – 'Billing To' GSTIN and trade name is entered and in the right hand side – 'Ship to' address of the destination of the movement is entered. The other details are entered as per the invoice.*
>
> *In case ship to state is different from Bill to State, the tax components are entered as per the billing state party. That is, if the Bill to location is inter-state for the supplier, IGST is entered and if the Bill to Party location is intra-state for the supplier, the SGST and CGST are entered irrespective of movement of goods whether movement happened within state or outside the state.'*

12. In light of this discussion, the impugned order is set aside and the detained consignment along with cargo ordered to be released forthwith. This

Writ Petition is allowed. No costs. Connected Miscellaneous Petitions are closed.

04.11.2022

Index : Yes
Speaking Order
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To

State Tax Officer – 1 (INT)
Adjudication Cell,
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Dr.ANITA SUMANTH,J.

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