



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.03.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

**W.P.(MD) No.5720 of 2022**

**and**

**W.M.P.(MD) No.4567 of 2022**

M/S.Smart Roofing Private Limited,  
represented by its Authorized Signatory, N.Karthick,  
Having registered office at  
2/439, II Floor, Mount Poonamalle High Road,  
Iyyapanthangal,  
Chennai 600 056,  
Having Branch Office at  
No.3/237-B, Rajaman Nagar,  
Chinthamani Main Road,  
Madurai 625 009.

... Petitioner

/vs./

The State Tax Officer (Int),  
Adjudication-II, Madurai,  
Commercial Tax Buildings,  
Dr.Thangaraj Salai,  
Madurai 625 020.

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in Order No.ADJ-II-18/2021-22/Madurai(Int) dated 25.03.2022 and quash the same as arbitrary, illegal and consequently direct the respondent to release the vehicle bearing registration No.TN 50 S 0022 along with its consignment within a time frame fixed by this Court.

|                |                                                         |
|----------------|---------------------------------------------------------|
| For Petitioner | : Mr.N.Sudalai Muthu<br>for Mr.S.Karunakar              |
| For Respondent | : Mr.K.S.Selva Ganesan<br>Additional Government Pleader |

**ORDER**

The petitioner has challenged the impugned order dated 25.03.2022 in Form GST Mov-9 seeking to impose penalty of Rs.2,50,387/- under CGST and SGST each, totally for a sum of Rs.5,00,774/- under Section 129(3) of the CGST Act, 2017.



2.The petitioner had consigned the goods from its main place of business at Chennai to its additional place of business, Sastha Bombalan Modern Rice Mill, 3/237-B, Chintamani Road, Anuppandi, Madurai. This was not the additional place of business, as per the original registration certificate obtained by the petitioner on 02.08.2018. However, in the E-way bill and the delivery Challan, the petitioner had declared the consignee as 130, Ring Road Chintamani, Madurai, though the consignment was meant for being discharged at its new place of business at Sastha Mombalan Modern Rice Mill, 3/237-B, Chintamani Road, Anuppandi, Madurai, Tamil Nadu 625 009. Under these circumstances, the consignment along with lorry was detained on 22.03.2022. A show cause notice dated 23.03.2022, to which the petitioner has replied on 25.03.2022, which has culminated in the impugned order dated 25.03.2022.

3.It is the specific case of the petitioner that there is no intention to evade tax as the petitioner has generated E-way bill by declaring the consignee as its additional place of business at No.130, Ring Road Chintamani, Madurai. It is further submitted that *ex post facto*, i.e., on the date of the petitioner has taken steps for amending the registration by including Sastha Mombalan Modern Rice Mill, 3/237-B, Chintamani Road, Anuppandi, Madurai, Tamil Nadu 625 009 also as the additional place of business. It is submitted that the imposition of penalty under Section 129 (3) of the CGST and SGST is unwarranted under the circumstances.

4.Opposing the prayer, the learned Additional Government Pleader for the respondent submits that the petitioner has an alternate remedy under Section 107 of CGST Act, 2017/SGST Act, 2017 and therefore there is no merits in this writ petition.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

6.No doubt, the authorities acting under the Act were justified in detaining the goods inasmuch as there is a wrong declaration in the E-way bill. However, the facts indicate that the consignor and the consignee are one and the same entity, namely, Head Office and the Branch Office. In this case, the petitioner has a new place of business, but had not altered the GST Registration. However, steps have been taken to *ex post facto* include the new place of business altering the GST Registration. The registration certificate has also been amended.

7.Considering the fact that there is only a technical breach committed by the petitioner and there is no intention to evade tax, I am inclined to quash the impugned order and allow this writ petition by directing the respondent to release the vehicle and the consignment to the petitioner, if the same has not been released



8.The writ petition is disposed of, in terms of the above observations. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-  
Assistant Registrar(CS III)

/TRUE COPY/

/ /2022  
Sub Assistant Registrar(CS)

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To

The State Tax Officer (Int),  
Adjudication-II, Madurai,  
Commercial Tax Buildings,  
Dr.Thangaraj Salai,  
Madurai 625 020.

+1 CC to M/s.S.KARUNAKAR, Advocate ( SR-15305[F] dated 30/03/2022 )

+1 CC to M/s.SPL GP ( SR-15655[F] dated 31/03/2022 )

**W.P. (MD) No.5720 of 2022**  
**30.03.2022**

MK/01.04.2022/3P/4C