IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

CORAM

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

W.P.No.24918 of 2023
and
W.M.P.Nos.24340, 24341 and 24342 of 2023

BeurerIndia Private Limited,
Represented by its Manager Mr.T.Krishna Kishore,
Unit – 2, No.43, Red Hills Road,
Kadapakkam Village,
Andarkuppam, Manali New Town,
Chennai. ... Petitioner

Vs

1.The Deputy State Tax Officer,
R.S.-II, Adjudication Intelligence - II,
Greams Road, Chennai – 600 006.

2.The State Tax Officer,
R.S.-II, Adjudication Intelligence – II,
Greams Road, Chennai – 600 006.

3.L.P.Logiscience LLP,
Represented by its Authorized Signatory,
No.57, Mulji House, 3rd Floor, 41-45,
Devji Retansey Marg, Dena Bunder,
Masjid, East Mumbai – 400 009. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent no.2 in issuing the Show Cause Notice dated 03.08.2023 and quash the same and thereby directing the release of the vehicle bearing registration No.TN-23-AK-3560 together with the goods belongs to the petitioner which were seized by the respondent no.1 vide his proceedings bearing No.G.D.2213/2023-24/RS-II/INT-II, dated 27.07.2023.

For Petitioner : Mr.S.Senthilnathan for Mr.K.Chandrasekaran

For Respondents : Mr.C.Harsharaj Additional Government Pleader for R1 and R2

ORDER

Mr.C.Harsharaj, learned Additional Government Pleader takes notice on behalf of the first and second respondent.

2. The petitioner has challenged the impugned notice in GST MOV-07 issued under Section 129(3) of the CGST Act, 2017 read with the corresponding provisions of the other two GST enactments.

3. The specific case of the petitioner is that the petitioner had imported the goods way back in 2022 and had sold the same to the third respondent/warehouse in Sothupakkam. The goods were transferred to another warehouse of the third respondent in Solavaram and during the transit, the goods were intercepted and notices have been issued.

4. It is the further specific case of the petitioner is that there is no sale (supply) and therefore question of generating E-way bill did not arise.

5. The learned counsel for the petitioner has placed reliance on a Circular No.3/3/2017-GST, dated 05.07.2017. It is submitted that the question of issuance of GST MOV – 07 will arise only under the circumstances specified in the Circular. Hence, the impugned notice is without jurisdiction.

6. The learned Additional Government Pleader for the first and second respondents would submit that Rule 138 of the GST Rules, 2017

is categorical. It is submitted that it is to be generated not only for all kinds of supply. It is further submitted that any movement of goods has to accompany E-way bill. It is therefore submitted that in absence of E-way bill, goods are liable to be confiscated.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the first and second respondents.

8. The provisions of Rule 138 is clear. The petitioner has only issued with impugned Show Cause Notice dated 03.08.2023 in GST MOV – 07. The petitioner has to reply to the same and faces the consequences for not generating the E-way bill before transporting the goods. The petitioner may therefore file its reply and participate in the adjudication proceedings.

9. This writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

24.08.2023

Index: Yes/ No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
jas

To

1.The Deputy State Tax Officer,
R.S.-II, Adjudication Intelligence - II,
Greams Road, Chennai – 600 006.

2.The State Tax Officer,
R.S.-II, Adjudication Intelligence – II,
Greams Road, Chennai – 600 006.

3.L.P.Logiscience LLP,
Represented by its Authorized Signatory,
No.57, Mulji House, 3rd Floor, 41-45,
Devji Retansey Marg, Dena Bunder,
Masjid, East Mumbai – 400 009.

C.SARAVANAN,J.

jas

W.P.No.24918 of 2023

and

W.M.P.Nos.24340, 24341 and 24342 of 2023

24.08.2023