IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27140 of 2023

Tvl.V.V.Iron and Steels,
Represented by its Proprietor
Saravana Pandian,
No.618, Mahalakshmi Road,
Paruthipattu, Avadi,
Chennai - 071. ... Petitioner

Vs.

The State Tax Officer,
Rs-VII, Intelligence-II,
Chennai - 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to quash the notice in FORM GST MOV 07 dated 08.09.2023 as arbitrary and to direct the respondent to release the conveyance bearing Registration No.TN-21-AZ-7279 along with its goods forthwith.

For Petitioner : Mr.J.Ashish

For Respondent : Mr.C.Harsharaj
Additional Government Pleader

ORDER

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

2. The petitioner has challenged the impugned notice in Form GST Mov-07 dated 05.09.2023.

3. The specific case of the petitioner is that the impugned notice in Form GST Mov-07 has been issued beyond the period of limitation prescribed under Section 129(3) of the Central Goods and Services Tax (CGST) Act, 2017.

4. It is submitted that the goods/conveyance were intercepted on 30.08.2023 and thereafter, the statements were recorded and order for physical verification/inspection of goods/conveyance and documents were issued in Form GST Mov-02 on the same date i.e., on 30.08.2023.

5. It is further submitted that the notice was received by the petitioner on 08.09.2023 beyond the statutory period of limitation under the aforesaid provision.

6. It is therefore submitted that the impugned notice has to lapse in view of limitation prescribed under Section 129(3) of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017.

7. The learned Additional Government Pleader for the respondent on the other hand would submit that the notice was dispatched to the petitioner through e-mail at about 5.54 p.m. on 07.09.2023.

8. It is further submitted that on the same date i.e., on 07.09.2023, the notice was also affixed on the vehicle.

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

10. The impugned notice ought to have been issued to the petitioner within seven days on the date of detention/seizure of goods/conveyance as is contemplated under Section 129(3) of the TNGST Act, 2017.

11. Sub-Section 3 to Section 129(3) of the TNGST Act, 2017 reads as under:-

> "129. Detention, Seizure and Release of goods and conveyances in transit:
>
> (1) .....
>
> (2) .....
>
> (3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1)."

12. Section 129(3) of the TNGST Act, 2017 has not used the expression "within seven days from the date of detention or seizure". The language in Section 129(3) of the TNGST Act, 2017 is clear. Notice specifying payment of penalty has to be issued within seven days of detention or seizure of goods. Issuance of notice within seven days has to be

calculated from the date on which seizure was to be effected and not from the following date. Thus, the last date for issuance of the impugned notice would have expired on 06.09.2023. However, the impugned notice has been dispatched through e-mail only on the following date i.e., on 07.09.2023 after the expiry of limitation.

13. Therefore, on this ground alone, the impugned notice has to go. Consequently, the impugned notice stands quashed with a direction to the respondent to release the goods/conveyances of the petitioner, if they have not been released so far. However, liberty is given to the respondent to impose penalty under any other provisions of the Act, after complying with the same.

14. In the result, this Writ Petition stands allowed. No costs.

14.09.2023

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

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C.SARAVANAN, J.

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To

The State Tax Officer,
Rs-VII, Intelligence-II,
Chennai - 006.

W.P.No.27140 of 2023

14.09.2023