IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.11.2023**

CORAM:

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No.31715 of 2023
and WMP Nos.31345 & 31346 of 2023

V.N.Mehta & Co.
Represented by its Partner
Mr.Rajeev B Mehta
31, Sembudoss Street,
Chennai – 600 001 ... Petitioner

vs.

1.The State Tax Officer
Adjudication, Coimbatore

2.The Deputy State Tax Officer
Roving Squad I,
Coimbatore. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent's order in FORM GST MOV-09 bearing Reference Order No.ADJ.160/2023-2024 dated 24.10.2023 and quash the same.

For Petitioner	:	Mr.A.N.R.Jayaprathap
For Respondent	:	Mr.V.Prashanth Kiran Govt. Advocate (Taxes)

ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to quash the impugned order passed by the 1st respondent dated 24.10.2023 and direct the 1st respondent to release the goods and conveyance No.TN 48 BZ 9198 immediately.

3. When the matter is taken up for hearing and after argument for some time, the learned Government Advocate appearing for the respondents took time to get instruction from the respondents with regard to furnishing of Bank Guarantee by the petitioner. Hence, the matter was passed over. After getting instructions, the learned Government Advocate submitted that as far as challenging the impugned order is concerned, the petitioner shall file a statutory appeal in terms of the provisions of the Act and with regard to release of the goods, they can very well file appropriate application under Section 129 (1) (c) in which case the proper officer will consider and pass orders as regards the release of the goods subject to furnishing the Bank Guarantee by the petitioner in terms of proviso to Section 129 (1) (c) of the Act.

4. The learned counsel for the petitioner submitted that he would prefer an appeal against the impugned order and further submitted that in the event of the petitioner filing an application for release of the goods, the respondent may be directed to consider the same and release the goods subject to the compliance of Section 129 (1) (c) of the Act.

5. On the other hand, the learned Government Advocate submitted that in the event of the petitioner filing an application under Section 129 (1) (c) of the Act, the proper officer would consider the same in accordance with law.

6. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on record.

7. Considering the submissions made by both the parties, this Writ Petition is disposed of with the following observations -

(i) the petitioner is given liberty to file an appeal challenging the impugned order ;

(ii) the petitioner is granted liberty to file an appropriate application, seeking release of the goods in terms of Section 129 (1) (c) of the Act, in which case, the proper officer shall consider the application and release the goods provisionally upon furnishing of security by the petitioner, as prescribed under Section 129 (1) (c) of the Act, within a period of one week from the date of furnishing security. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

06.11.2023

Index: Yes/No
Speaking/Non-Speaking Order
Neutral Citation: Yes/No.
rgr

<u>Note: Issue order copy by 07.11.2023</u>

To

1.The State Tax Officer
Adjudication, Coimbatore

2.The Deputy State Tax Officer
Roving Squad I,
Coimbatore.

KRISHNAN RAMASAMY, J.

rgr

W.P. No.31715 of 2023

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