BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.18970 of 2023
and
W.M.P.(MD).No.15762 of 2023

Tvl.T M Steel,
Represented by its Authorised representative,
E.Yosuva,
49/1157, 1158 & 1600.
Kasanakotta,
Kannur, Kerala. ... Petitioner

Vs.

The Deputy State Tax Officer,
Roving Squad Team IV,
Trichy. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in Notice in Form GST MOV 07 dated 24.07.2023 in OR No. 3265/2023-24 issued by the respondent and quash the same as illegal, arbitrary, without jurisdiction and direct the respondent to release the vehicle bearing Registration No.TN 15 X 8024 along with consignment detained by the respondent.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.A.K.Manikkam,
Special Government Pleader.

ORDER

This Writ Petition is filed challenging the impugned order dated 24.07.2023 and direct the respondent to release the vehicle bearing Registration No.TN 15 X 8024 along with consignment detained by the respondent.

2. The contention of the petitioner is that he is a manufacturer of TMT steel and iron Bar. The petitioner has received an order for supply of 24.990 MTS of TMT Bar 25 MM from Mr.T.Balaji (HUF) 92F/9B, Devapuram Road, Tuticorin. Based on the above order, the petitioner in turn had placed an order for the supply of the above consignment with M/s.Rashmi Mataliks Limited, Gokulpur, Shyamraipur, Kharagpur, West Bengal (hereinafter referred to as M/s.Rashmi) and instructed them to directly send the consignment to Mr.T.Balaji (HUF), Tuticorin. Based on the order placed by the petitioner, the said M/s.Rashmi had raised their E-invoice No.702923010344 dated 20.07.2023 along with E-way Bill No.811329404105 dated 20.07.2023 for the supply of said goods. The contention of the petitioner is that while preparing invoices, the said M/s.Rashmi had committed a typographical error in the column of both “Billed To” and “Shipped To” by mentioning Tvl.T.M.Steel. In other words the said M/s.Rashmi ought to have mentioned Tvl.T.Balaji in the “Shipped To”, but in this column also it has mentioned Tvl.T.M.Steel.

Moreover, the said M/s.Rashmi has not mentioned Tvl.T.Balaji GST number. The mistake is committed by the said M/s.Rashmi, but the respondent herein has penalized the petitioner. Hence, the petitioner is before this Court.

3. The learned Additional Government Pleader on instructions from the respondent submitted that not only the said Tvl.T.M.Steel is mentioned in the Shipped To column, but the GST number of Tvl.T.M.Steel is not mentioned. Hence, the same cannot be considered as typographical error and vehemently opposed the contention of the petitioner.

4. On perusing the Tax Invoice, it is seen that in the Billed To column, the said M/s.Rashmi has correctly mentioned Tvl.T.M. Steel with correct address of Tvl.T M Steel and has also mentioned its GST number. However, in the Shipped To column, instead of mentioning Tvl.T.Balaji, it has mentioned as Tvl.TM Steel. But in address column, it has been clearly mentioned Tvl.T.Balaji address as Devapuram Road, Thoothukudi. Therefore, it can be considered as typographical error only. Moreover, it is not the mistake of Tvl.TM Steel, it is the mistake committed by M/s.Rashmi. The respondent has not communicated to the counterpart at Bengal to questioned the said M/s.Rashmi. It is not known how the authorities penalizing the petitioner when the petitioner has not committed the said mistake. When the petitioner has not

committed such mistake the respondents have left the goods in the vehicle for the past 10 days, thereby damaging the vehicle and goods.

5. Moreover, as rightly pointed out by the Learned Counsel appearing for the petitioner that the respondent has not passed order with 7 days from the date of service of such notice. It is seen that the respondent intercepted the consignment on 24.07.2023 and issued a detention order on 24.07.2023, the petitioner had filed a reply on 27.07.2023. But till 31.07.2023 the respondent had not passed any order, the respondent ought to have passed an order on or before 31.07.2023. Even the respondent had not passed any order when this order is passed today. Under Section 129(3) of the Act, the order ought to be passed within 7 days from the date of serve of such notice. Since there is clear violation of the provisions of the Act and hence the detention of goods is against the provisions. Therefore, this Court is inclined to pass a following directions:

(i) *The petitioner is directed to pay Rs.5,000/- (Rupees Five Thousand only) as penalty to the respondent. On such payment, the respondent shall release the goods.*

(ii) The impugned penalty order is modified to this extent. However, the petitioner is at liberty to challenge the modified penalty before the authorities.

(iii) The authorities are also at liberty to intimate the mistake committed by the said M/s.Rashmi Mataliks Limited to their counterpart in West Bengal and take appropriate action as against the said M/s.Rashmi Mataliks Limited.

6. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

Note: Issue Order Copy on 08.08.2023.

To

The Deputy State Tax Officer,
Roving Squad Team IV,
Trichy.

S.SRIMATHY, J.

Nsr

W.P.(MD).No.18970 of 2023

08.08.2023