BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2023

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No. 23502 of 2023
and
W.M.P.(MD)No.19708 of 2023

M/s.Bhima Enterprises,
represented by the Accountant,
L.N.Rajesh,
No.8/7, Ramapuram West,
Manikattipotta, Pottal Post,
Nagercoil,
Kanniyakumari District-629 501. :Petitioner

..Vs..

1.The Joint Commissioner,
Office of the Central GST and Excise,
Tirunelveli Division, 2nd Floor,
Central Revenue Building,
Tractor Road, NGO "A" Colony,
Tirunelveli – 627 007.

2.The Superintendent,
Office of the Central GST and Excise,
Tirunelveli Division, 2nd Floor,
Central Revenue Building,
Tractor Road, NGO "A" Colony,
Tirunelveli – 627 007.

3.The Inspector,
Office of the Central GST and Excise,
Tirunelveli Division, 2nd Floor,
Central Revenue Building,
Tractor Road, NGO "A" Colony,
Tirunelveli – 627 007. : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a writ, order or direction, more particularly in the nature of a WRIT OF CERTIORARIFIED MANDAMUS, calling for records pertaining to the Impugned Seizure Order passed by the 2nd respondent dated 16.08.2023 and quash the same as illegal and consequently directing the respondent nos. 1 and 2 to lift the prohibitory order and release the goods seized by the respondent no.2 on 16.08.2023 in Form GST INS-02 by considering the petitioner's representation dated 18.08.2023 and 14.09.2023 within a time stipulated by this Court.

For Petitioners : Mr.R.Karunanidhi

For Respondents : Mr.R.Nandakumar
assisted by M/s.S.Ragaventhre

O R D E R

This writ petition is filed for writ of Certiorarified Mandamus, to quash the Impugned Seizure Order passed by the 2nd respondent dated 16.08.2023 as illegal and consequently directing the 1st and 2nd respondents to lift the prohibitory order and release the goods seized by the 2nd respondent on 16.08.2023 in Form GST INS-02 by considering the petitioner's representation dated 18.08.2023 and 14.09.2023 within a time stipulated by this Court.

2. The respondents have seized the goods since it is excess stock available with the petitioner. The petitioner had already paid the tax and penalty. However, the respondents are not releasing the goods. Under Section 67 (6) the respondents are having power to release the goods on certain conditions. The said provision is extracted hereunder:

> *"(6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed* ***or on payment of applicable tax, interest and penalty payable****, as the case may be. "*

3. The respondents are empowered to demand to pay tax, interest and penalty or they can direct the petitioner to execute a bond or furnish security. In the present case, since the petitioner has paid the applicable tax and penalty. Therefore, the petitioner is entitled to be

considered under section 67. Since the petitioner had paid the entire tax portion and the penalty, then it is not necessary to execute the bond or security. Therefore, the respondents are directed to release the goods within a period of two days from the date of receipt of a copy of this order.

4. Accordingly, the Writ Petition is allowed as stated above. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2023

Index:Yes/No
Internet:Yes/No
tmg

Note: Issue order copy on 29.09.2023.

S. SRIMATHY, J.,

tmg

W.P(MD) No. 23502 of 2023

26.09.2023