IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 18.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17481 of 2024
and W.M.P.No.19271 of 2024

Vetrivel Explozives Pvt Ltd
Represented by its
Mr.R.Vijayakannan,
No.135-F, Kennedy Nagar,
Salem 636 005. ... Petitioner

-vs-

The Deputy State Tax Officer,
Roving Squad,
Cuddalore. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records in the file of the respondent vide Impugned notices: Form GST MOV-01 dated 15.06.2024 and consequential Form GST MOV-07 dated 15.06.2024 and quash the same as arbitrary and in violation of principles of natural justice.

For Petitioner : Mr.M.Narasimha Bharathi

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

The petitioner transported PETN explosives from Salem to Vietnam. Such goods were intercepted on the ground that the petitioner had not generated e-invoices in respect thereof. Notices were issued in Form GST MOV-01 and MOV-07. These notices are challenged in this writ petition.

2. Learned counsel for the petitioner submits that the goods are exempted goods under applicable GST statutes. Consequently, he contends that clause (a) of sub-section (1) of Section 129 applies and

the maximum penalty that may be imposed is Rs.25,000/-. Instead, he submits that 200% penalty was imposed. He also submits that after the writ petition was filed revised notice dated 25.06.2024 was issued calling upon the petitioner to pay a sum of Rs.56,20,104/- as penalty.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to undertaking letter dated 15.06.2024, he submits that the petitioner agreed to pay the penalty for not generating e-invoices and merely requested for further time until 18.06.2024. He also submits that the petitioner did not contend that the goods were exempted even in subsequent reply dated 18.06.2024. In these circumstances, he submits that no interference is called for.

4. On examining the petitioner's undertaking dated 15.06.2024 and the reply dated 18.06.2024, it is noticeable that the petitioner

undertook to pay the penalty. It is also noticeable that the petitioner did not assert that the goods are exempted. In any event, whether goods are exempted or not is a mixed question of fact and law. This is required to be examined by the respondent. Since notices were issued and the petitioner replied thereto, it is just and appropriate that the adjudication process be concluded.

5. Therefore, W.P.No.17481 of 2024 is disposed of by directing the respondent to conclude the adjudication in respect of the penalty proceedings against the petitioner within ***four weeks*** from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the revised notice within ***one week*** from the date of receipt of a copy of this order. No costs. Consequently, W.M.P.No.19271 of 2024 is closed.

18.07.2024

rna
Index : Yes / No
Internet : Yes / No

Neutral Citation: Yes / No

To

The Deputy State Tax Officer,
Roving Squad,
Cuddalore.

SENTHILKUMAR RAMAMOORTHY,J

rna

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