IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35664 of 2024

M/s.M.S.Enterprises,
Represented by its proprietor,
Mr.Saravanan,
No.7, Pillaiyar Koil Street,
Kachinakuppam, Ambattur Industrial Estate,
Chennai 098. .. Petitioner

Vs.

The State Tax Officer,
Adjudication, Intelligence,
Salem. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent and to quash the notice dated 12.11.2024 Order No.03/2024-25 Adjudication and Legal passed by the respondent and further direct the respondent to release the conveyance bearing registration No.TN34 W 9645 and its goods without imposing any taxes.

For Petitioner : Mr.J.Ashish

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the proceeding dated 12.11.2024 in Order No.3/2024-25 / Adjudication and Legal, whereby the conveyance bearing No. TN 34 W 9645 was detained for transportation of goods without vaild E-Way bill.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in retail and wholesale supply of ferrous waste and is registered under GST Act. The petitioner effected sales of scrap to a recipient at Coimbatore. Pursuant to the above transaction the goods were moving from Chennai to Coimbatore with E-way bill No.531726514613 dated 29.10.2024. The said E-way bill was valid until 01.11.2024. The goods were intercepted on 04.11.2024 around 01.05. a.m. at Vaikundam. The statement of the driver was also recorded on 04.11.2024. It was found on interception that the movement was not covered by a valid E-way bill inasmuch as there is no extension of the validity of the E-way bill beyond 01.11.2024. It is further submitted by the learned counsel for the petitioner that though the E-way bill was

valid only until 01.11.2024 they had infact sought for an extension on 03.11.2024. It was also submitted by the learned counsel for the petitioners that certain errors had crept in while seeking extension.

3. To the contrary, the learned counsel for the respondent would submit that in terms of Rule 138 (10) of GST Rules, 2017, the extension of E-way bill ought to be obtained within 8 hours prior to the expiry of the validity of the E-way Bill. It is submitted by the learned counsel for the respondent that the petitioner having been aware of the fact that E-way bill would expire on 01.11.2024 ought to have ensured that the validity of E-way bill is extended by updating the details in Part B of Form GST EW01. However, the petitioner failed to ensure that the E-way bill's validity stood extended and therefore the respondent authorities were justified in detaining the goods.

4. The learned counsel for the petitioner would then rely upon Section 129 of the GST Act, 2017 to suggest that the Act does provide for a provisional release of goods subject to certain conditions.

5. The learned counsel for the respondent would submit that the petitioner may be directed to pay the penalty of 200% of taxes viz., 100% of tax by cash, another 100% of tax by way of bank guarantee, which was agreed to by the learned counsel for the petitioner.

6. In view thereof, the writ petition is disposed of with a direction to the petitioner to pay the penalty of 200% of taxes viz., 100% of tax by cash, another 100% of tax by way of bank guarantee. On complying with the above condition, respondent authority shall provisionally release the goods. It is open to the petitioner to challenge the impugned proceedings by way of an appeal or in a manner known to law. There shall no order as to cost.

22.11.2024

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp

To:

The State Tax Officer,
Adjudication, Intelligence,
Salem.

MOHAMMED SHAFFIQ, J.

spp

W.P. No.35664 of 2024

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