IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.2778 of 2025
and W.M.P.Nos.3108 & 3110 of 2025

M/s.Urmilla Enterprises Pvt. Ltd.,
Represented by Niraj Sheth,
Director Operation,
15 ARK Colony,
Eldams Road, Alwarpet,
Chennai - 600 018. .. Petitioner

Vs.

State Tax Officer-I,
Adjudication and Legal,
Fort Round, Bharathiar Salai,
Vellore - 632 001. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records relating to impugned order bearing reference No.GDN No.1344/2024-2025 in form Mov-09 dated 09.01.2025 passed by the respondent and quash the same and further direct the respondent to release the consignment and appropriately compensate the petitioner for the loss incurred.

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader(T)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records relating to the impugned order bearing reference No.GDN No.1344/2024-2025 in form Mov-09 dated 09.01.2025 passed by the respondent and quash the same and further to direct the respondent to release the consignment and appropriately compensate the petitioner for the loss incurred.

2. The case of the petitioner is that they sold an old KOBELCO SD520 Excavator to M/s.Stone Factory on 01.01.2025 and it was supported an Invoice, dated 27.12.2024 and also an e-way bill dated 01.01.2025 and the goods were dispatched from the petitioner's factory, however, during transit, the goods were intercepted by the respondent and the same were detained on the ground of non-generation of e-invoice. Thereafter, a show cause notice in Form Mov-07 was issued on 02.01.2025, proposing to impose a penalty equal to 200% of the tax amount for non-generation of an

e-invoice for a business-to-business transaction. It appears that though the petitioner gave their reply, stating that due to technical glitches in the portal, they could not generate e-invoice on 31.12.2024, but generated it on 02.01.2025 since 01.01.2025 was public holiday. However, the respondent passed impugned order in Form Mov-09, dated 09.01.2025 imposing a penalty of Rs.39,60,000/-. Challenging the same, the petitioner has come forward with the present Writ Petition.

3. Learned counsel appearing for the petitioner would submit that the impugned order bearing reference No.GDN No.1344/2024-2025 in Form Mov-09 dated 09.01.2025 has been passed without considering the Circular No.10/2019 dated 31.05.2019, issued by the Commissioner, Commercial Tax. He pointed out that the entire demand itself would not arise by virtue of the aforesaid circular. He would also submit that the petitioner is ready and willing to deposit a sum of Rs.10 Lakhs to the respondent for the release of vehicle. Hence, he prayed to set aside the impugned order and remand the matter to the respondent for re-consideration.

4.Mr.C.Harsha Raj, Additional Government Pleader (T) appearing for the respondent, after getting instructions from the respondent, would fairly submit that while passing the impugned order, the Circular No.10/2019 dated 31.05.2019 was not considered. Therefore, he would submit that the matter may be remanded to the respondent for fresh consideration in the light of the Circular No.10/2019 dated 31.05.2019 and pass appropriate orders.

5.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader (T) for the respondent.

6.Considering the submissions made by the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent and since the impugned order has been passed without taking into consideration of the Circular No.10/2019 dated 31.05.2019, whereby, according to the petitioner the benefit available under the said Circular has not been given effect to by the respondent in entirety, this Court is inclined to set aside the impugned order and remand the matter back to the respondent for re-consideration.

7.Accordingly, the impugned order bearing reference No.GDN No.1344/2024-2025 in form Mov-09 dated 09.01.2025 is set aside and the matter is remanded back to the respondent for re-consideration. The respondent is directed to re-consider the matter and pass orders by taking into consideration of the Circular No.10/2019 dated 31.05.2019 within a period of three days from the date of receipt of a copy of this order.

8.It is made clear that if the respondent has come to the conclusion that benefit available by virtue of the said circular is not applicable for the petitioner, the respondent shall release the vehicle upon the deposit of sum of Rs.10 Lakhs (Rupees Ten lakhs only) by the petitioner and if the detained vehicle is kept idle, it would get damaged and its value also get deteriorated till final orders being passed, if the said order is challenged, attains finality.

9.With the above direction, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

05.02.2025

rst

Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

Note: Issue Order Copy Today

To:

State Tax Officer-I,
Adjudication and Legal,
Fort Round, Bharathiar Salai,
Vellore - 632 001.

KRISHNAN RAMASAMY, J.

rst

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