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W.P.No.9567 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

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Tvl.Asian Paints Limited,
GSTIN: 33AAACA3622K1Z2
Represented by its Authorized Signatory
Plot No.E6-F13, Sipcot Industrial Park,
Sriperumbudur, Kancheepuram-602 105.

... Petitioner

vs.

1. The Assistant Commissioner (ST)
Adjudication, Intelligence-I,
No.1, Greams Road,
6th Commercial Taxes Annex Building,
Chennai-600006.

2. The Deputy State Tax Officer,
Roving Squad-III,
Manjabakkam Toll,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent herein to accept the bank guarantee equivalent to the disputed penalty amount of Rs.25,86,662/- in accordance with the provisions of Section 129(1)(c) of the CGST Act, 2017 and provisionally release the goods along with the conveyance bearing TN 07 AV 7881, pass such other order or orders as this Court may deem fit



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and proper in the circumstances of the case.

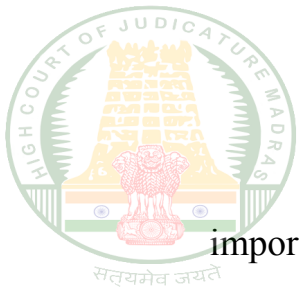
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For Petitioner : M/s.Aparna Nandakumar
For Respondents : Mr.C.Harsha Raj,
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the first respondent herein to accept the bank guarantee equivalent to the disputed penalty amount of Rs.25,86,662/- in accordance with the provisions of Section 129(1)(c) of the CGST Act, 2017 and provisionally release the goods along with the conveyance bearing TN 07 AV 7881, pass such other order or orders as this Court may deem fit and proper in the circumstances of the case.

2. The case of the petitioner is that the petitioner company is a leading brand and manufacturer in paints and is a Public Limited Company registered under Companies Act, 2013 and also registered under the Central Goods and Services Tax Act, 2017(in short 'CGST Act') and Tamil Nadu Goods and Services Tax Act, 2017 (in short 'TNGST Act'). The petitioner



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imported Titanium Dioxide Rutile bearing TN 07 AV 7881 from

M/s.Tronox Pigments Private Limited, Australia for their manufacturing

plant at Sriperumbudur. While that being so, the goods were inspected by

the second respondent and the the petitioner was issued with the Order of

Detention in Form GST MOV-06 dated 21.03.2022 along with the Penalty

Notice under Section 129(3) of the CGST Act, 2017 and TNGST Act, 2017

by the first respondent. Challenging the order of detention by the first

respondent, the petitioner filed Writ Petitions in W.P.Nos.7378 and 7384 of

2022 dated 29.03.2022 and the same was disposed of by this Court with a

direction to the petitioner herein to raise all the points on merits before the

adjudicating authority and directed the respondents herein to pass an order

within a period of two weeks after giving an opportunity of being heard by

considering the circumstances of the case.

3. Thereafter, the petitioner filed his objections on 04.04.2022

regarding detention of goods that were imported by the petitioner. However,

the first respondent vide order dated 07.04.2022 confirmed the levy of

penalty of Rs.25,86,662/- under Section 129(1)(a) of the CGST Act, 2017.

Thereafter, the petitioner made a representation dated 11.04.2022 requested

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the respondents to release the goods in the vehicle bearing Regn.No.TN 07

WEB COPY AV 7881 by stating that they would furnish the bank guarantee equivalent to the disputed penalty amount of Rs.25,86,662/- and further that the petitioner yet to prefer appeal under Section 107 of the CGST Act, 2017 against the order dated 07.04.2022, however, till date no order has been passed on representation of the petitioner. Aggrieved by the same, this Writ Petition is filed.

4. The learned counsel for the petitioner submitted that, it would suffice if this Court issues direction to the first respondent to accept the bank guarantee equivalent to the disputed penalty amount of Rs.25,86,662/- in accordance with the provision of Section 129(1)(c) of the CGST Act, 2017 and provisionally release the goods in the vehicle bearing Regn.No.TN 07 AV 7881.

5. The learned Additional Government Pleader appearing for the respondents submitted that if the petitioner could annex the bank guarantee along with the copy of the representation made before the first respondent, immediately after the receipt of the bank guarantee of the petitioner, the



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detained goods will be released in favour of the petitioner within a period of one week from the date of receipt of the same.

6. In view of the fair submission made by the learned Additional Government Pleader, this Court permits the petitioner to obtain and annex the bank guarantee within a period of one week from the date of receipt of a copy of this order along with the application/representation. If such bank guarantee and application is made, the respondents are directed to release the detained goods to the petitioner within a period of one week thereafter.

7. With the aforesaid directions, this Writ Petition is disposed of. No Costs.

18.04.2022

Index : Yes/No
Speaking order : Yes/No
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Note: Issue order copy tomorrow i.e (19.04.2022)



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M.DHANDAPANI,J.

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To:

1. The Assistant Commissioner (ST)
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Chennai-600006.
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