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W.P. No. 15052 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

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THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. No. 15052 of 2024

&

W.M.P. No. 16360 & 16361 of 2024

M/s. Mane Kancor Ingredients Pvt.Ltd.,
represented by its Group Leader Indirect Taxation
K. Rajan,
Sy.No. 278/1, Kanakkankadavu Road,
Angamaly, Ernakulam 683 573.

..Petitioner

Vs.

1. State Tax Officer (FAC),
Adjudication and Legal Vellore,
Vellore Division,
No.4. Integrated CT building,
Bharathiar Salai,
Fort Round Road, Vellore 632 001.

2. Commissioner of Commercial Taxes,
4th Floor, Ezhilagam,
PWD Estate, Chepauk, Triplicane,
Chennai 600 005.

..Respondents



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Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to impugned order bearing reference No. GDN No. 72/2024-25 dated 27.05.2024 passed by the 1st respondent and quash the same and further direct the 1st respondent to appropriately compensate the petitioner for the losses suffered by them.

For Petitioner :: Mr.G. Natarajan

For Respondents :: Mr. C. Harsha Raj
Addl. Govt. Pleader (T)

O R D E R

An order dated 27.05.2024 by which the petitioner's goods were detained and penalty was imposed is challenged in this writ petition.

2. The petitioner is a company engaged in the business of supplying natural food ingredients solutions. The petitioner states that it was conferred the status of '4 Star Export House' by the Director General of Foreign Trade and was issued with an 'Authorised Economic Operator



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Certificate'. Upon importing 16 metric tonnes of 'Oleoresin Paprika Crude' from M/s. Lead Healthy (Hongkong) Trading Company Limited under invoice No. 240264 dated 07.04.2024 and Bill of Entry bearing No. 3299678 dated 02.05.2024, the petitioner transported the goods from Chennai Sea Customs Port to its Karnataka Unit in vehicle bearing Registration No. TN88 4255. The said goods were intercepted on 21.05.2024. Eventually, the order impugned herein was issued.

3. Learned counsel for the petitioner referred to the Advance Authorisation Certificate of the petitioner and pointed out that the said certificate specifies the name and address of supporting manufacturers of the petitioner. The list of supporting manufacturers includes the Karnataka Unit to which the goods were transported. By referring to the GST Registration Certificate, learned counsel points out that the list of additional places of business in Karnataka are specified in the Registration Certificate and that such list includes the address of the Unit to which the goods were transported. By stating that the goods were transported with an E-way bill and that the E-way bill also specified the Karnataka Unit to which the goods



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were transported, learned counsel further submits that the impugned order was issued merely because the goods were not accompanied by a delivery challan. In this connection, learned counsel referred to the circular issued by the Central Board of Indirect Taxes and Customs ('CBIC' in short) on 26.03.2018. By referring to paragraph 8.4 thereof, he submits that delivery challans are required to be despatched directly by the principal to the job worker in cases wherein the goods are sent directly by the supplier to the job worker. Since upon clearance at the Chennai Sea Customs Port, the goods were intended to be transported directly to the job worker in Karnataka, learned counsel submits that it was not necessary that the delivery challan should accompany the goods as per the clarification issued by CBIC.

4. Mr.C. Harsha Raj, learned Additional Government Pleader appears on behalf of the respondents. He points out that the petitioner is a registered person in Kerala. For purposes of GST law, each registered Unit is a separate person. Consequently, he submits that proper documentation is necessary to establish the chain flowing from the exporter through the importer to the recipient. In the absence of the delivery challan, he submits



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that this chain is incomplete and that the respondents were fully justified in intercepting the vehicle and detaining the goods.

5. During the previous hearing, learned counsel for the petitioner requested for time to ascertain whether delivery challans could be produced by the petitioner. Today, when the matter is taken up, he submits that delivery challans are available and would be produced before the respondents.

6. The petitioner has placed on record the Advance Authorisation Certificate. The said document specifies the name and address of the Karnataka Unit to which the goods were transported. The GST Registration Certificate of the petitioner specifies the list of additional places of business. This list includes the Karnataka Unit to which the goods were transported. The Bill of Entry is on record as also the E-way Bill. The E-way Bill indicates the name of the exporter. It also indicates the name of the importer and the shipping address in Karnataka. The petitioner has placed reliance on the clarification issued by the CBIC. It is certainly arguable that the delivery



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challans are required to be sent directly by the principal to the job worker in cases wherein the goods moved directly to the job worker. When these facts and circumstances are considered cumulatively, this is an appropriate case to direct the 1st respondent to consider the petitioner's request for release of goods expeditiously subject to production of relevant delivery challans.

7. For reasons set out above, the writ petition is disposed of by setting aside the order dated 27.05.2024 and directing the 1st respondent to reconsider the petitioner's request for release of goods. Such request shall be considered subject to production of relevant delivery challans and disposed of on or before 20.06.2024. No costs. Connected W.M.Ps. are closed.

14.06.2024

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(Note to Office: Issue order copy

on **18.06.2024**)

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To

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SENTHILKUMAR RAMAMOORTHY,J.

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