

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 10471 of 2023

Manish Kumar Jaiswal

.....

Petitioner

Mr. U.C. Behera, Advocate

Vs.

***State Tax Officer (CT & GST
Officer), Balasore***

.....

Opposite Parties

Mr. Sunil Mishra, ASC (CT&GST)

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE M.S.RAMAN

ORDER

06.04.2023

Order No.

02.

This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.

3. In compliance to the order dated 05.04.2023, Mr. Sunil Mishra, learned Additional Standing Counsel appearing for CT & GST has received the instruction, which reads as follows:-

“1. Vehicle bearing registration No. OR15R3871 was intercepted on 17.03.2023 at Sergarh, Balasore near about 1.05 A.M. Verification from the portal discrepancies noticed which needed further verification. Therefore, the statement of the driver was recorded in Form-GST MOV-01 and was directed to station the vehicle at office premises vide Form-GST-MOV-02.

2. Further verification from the portal revealed that the consigner is engaged in fraudulent business activities and claiming fake ITC. Therefore, detention notice in Form GST MOV-06 was served on the driver directing him to station the vehicle at office premises.

3. The bonafideness of the consignor M/s. Mitigater Techsecure Pvt. Ltd was verified by the CT & GST Enforcement Unit, Bhubaneswar and found to be suspicious.

4. A show cause notice in Form GST-MOV-07 was served on the driver directing him to show cause as to why penalty U/s 129 (1)(b) shall not be payable by him.

5. *No reply to the show cause notice was furnished by any persons.*
6. *Therefore an order of demand was issued to the driver in Form-GST-MOV-09 vide order No. 301, dt.29.03.2023 raising demand of Rs.9,57,600/- U/s 129 (3) of the GST Act.*
7. *Till date no person has come forward against the show cause notice or to pay the penalty as demanded.*
8. *The conveyance can be released on payment of penalty as per the demand order or after furnishing bank guarantee of equal amount.”*

4. In view of the instruction received, it appears that the petitioner has not approached the authority, even though the authorities have expressed their view that the conveyance can be released on payment of penalty as per the demand order or after furnishing the bank guarantee of equal amount.

5. Mr. Behura, learned counsel for the petitioner undertakes that the petitioner shall furnish the bank guarantee of equal amount within a period of two days, so that the authority can release the vehicle. It is made clear that if the petitioner fails to furnish the bank guarantee, it will be open to the opposite parties to confiscate the vehicle of the petitioner.

6. So far the order impugned is concerned, since the same is appealable one, the petitioner is permitted to prefer appeal before the appellate authority in accordance with law.

7. The writ petition is accordingly disposed of.

(DR. B.R. SARANGI)
JUDGE

(M.S. RAMAN)
JUDGE

Arun