

W.P.No. 36027 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No. 36027 of 2024

Madhesh @ Madesan

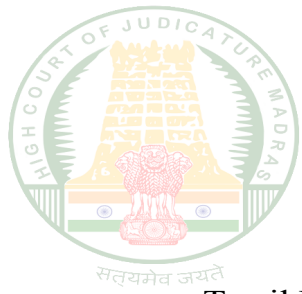
...Petitioner

Versus

The State Tax Officer, (FAC)
Commercial Tax Department
Rowing Squad – III
Hosur, Krishnagiri District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order of detention under Section 129 (1) of the Tamil Nadu Goods and Service Tax Act, 2017 and Central Goods and Services Tax Act, 2017 in Form GST MOV-06 vide Ref Form GST MOV-02 No. 4365/2023-24/RS4/Hosur, dated 29.10.2024 and impugned notice under Section 129(3) of the Central Goods and Services Tax Act, 2017 and



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Tamil Nadu Goods and Services Tax Act, 2017 in Form GST MOV-07 Ref

Form GST MOV-02 No.4365/2023-24/RS4/Hosur dated 29.10.2024

passed by the respondent and quash the same and consequently to direct

the respondent to release the lorry bearing Registration No. TN-29-AB-

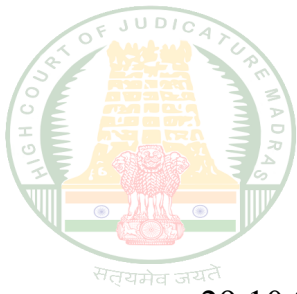
7887 together with conveyance and goods to the petitioner.

For Petitioner : Mr.M.R. Jothimanian
for Mr.Elavarasan M.R.

For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging GST MOV-02 dated 29.10.2024 and GST MOV-07 dated also the same date. The short question is whether the proceedings under Section 129(3) can be sustained in the absence of complying with the time line mandated under Section 129(3). It is the case of the petitioner that the goods were detained on

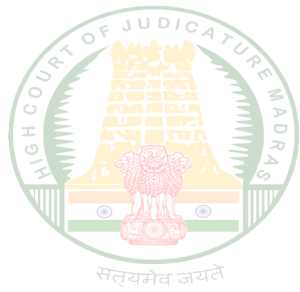


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29.10.2024 and notice under Section 129(3) of the Act, 2017 in Form GST

MOV-07 was issued on 29.10.2024. However, till date there is no order of detention made in Form GST MOV-09 which is in gross violation of the time line stipulated under Section 129(3) of the Act. It is submitted that in terms of Sub Section (3) to Section 129 order of detention in GST MOV-9 ought to have been made within seven days from the date of the issuance of show cause notice. It is submitted that the failure to adhere to the time lines stipulated in Section 129(3) of the Act, would result in vitiating the proceedings.

2. In this regard, petitioner has relied upon the judgment of this Court in **Tvl. Udhayan Steels Private Limited, Represented by its Director Selvan v. The Deputy State Tax Officer (Int.) and Another** reported in **(2023) 71 GSTL 133** wherein this Court, following the order in **W.P.No. 25931 of 2022 dated 10.10.2022** held as under:-



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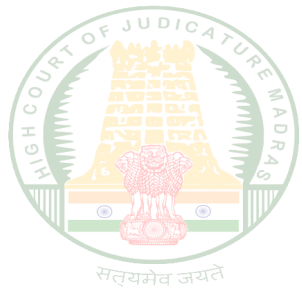
“3. In this regard, it may be relevant to note the following dates.

- (a) The date of detention is 07.12.2022.
- (b) The notice was issued on 07.12.2022.
- (c) The order of detention is passed on 15.12.2022.

4. It is submitted by both the counsel for the petitioner and respondent that the order u/s. 129(3) of the Act is passed on the eight day from the date of service of notice, whereas the time line stipulated under Section 129(3) of the Act is that the order ought to be passed within a period of seven days from the date of service of such notice. In as much as admittedly, the impugned proceedings are beyond the time lines stipulated under Section 129(3) of the Act, the same is fatal to the order in terms of the order of this Court in W.P.No. 25931 of 2022. The impugned proceedings are set aside and the vehicles/goods in question shall be released forthwith.”

3. Similar view has also been expressed by this Court in W.P.Nos.

476 of 2023 and W.P.No. 33851 of 2022 dated 23.01.2023.



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4. Following the above orders, this Court is of the view that the impugned proceedings are liable to be set aside inasmuch as it is in contravention of the time lines stipulated in Section 129 of the Act. Consequently, vehicle bearing Registration No. TN-29-AB-7887 shall be released forthwith.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

21.12.2024

Index : Yes/No

Internet : Yes/No

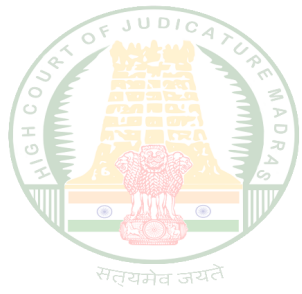
Speaking Order : Yes/No

Neutral Citation : Yes/No

MSM

To

The State Tax Officer, (FAC)
Commercial Tax Department
Rowing Squad – III
Hosur, Krishnagiri District.



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MOHAMMED SHAFFIQ, J

MSM

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