

GIB/TS/VIJAY METAL/28.04.2021/HC-203

High Court Category : INTENTION TO EVADE GST

State : Telangana

Order No.: GIB/TS/VIJAY METAL/28.04.2021/HC-203

Name of Entry :
VIJAY METAL

Date : 28-04-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

In this case the petitioner is a trader in steel registered under the CGST Act, 2017 having registered office at Ranigunj, Secunderabad.

In this Writ Petition, the petitioner seeks Writ of Mandamus to declare (i) the action of the Deputy Commercial Tax Officer, Mahabubnagar, Telangana State (1st respondent) in illegally detaining the goods conveyance bearing No.AP13X 6980 on 29.12.2020 at Annasagar, Bhoothpur Mandal, Mahabubnagar District and (ii) collecting from the petitioner ? 3,68,555/- towards GST and penalty of ? 3,68,555/- on 04.01.2021 and then releasing the said vehicle, as illegal, arbitrary and violative of Articles 14 and 300A of the Constitution of India and (iii) for refund of the said amounts.

Decision of Advance Ruling Authority :

DECISION:

The 1st respondent had acted mechanically without application of mind to the operational convenience of the transporter - Also for the bonafide action of the transporter, the 1st respondent cannot mulct the petitioner with tax and penalty.

The petitioner cannot be said to have any intention to evade tax if any mistake is, for the sake of argument without conceding it, has been committed by the transporter - The finding of the officer, the 1st respondent, in the impugned order that the transaction involving the petitioner was 'suspicious' and that the transporter was found 'without proper documents' is perverse and cannot be sustained in these circumstances.

The order of detention in Form GST MOV-06 on 29.12.2020 passed under Section 129(3) of the CGST Act, 2017 by the 1st respondent is set aside - Petition allowed.