

IN THE HIGH COURT OF KARNATAKA
Writ Petition No.110937 of 2019 (T-RES)

KALEBUDDE LOGISTICS

Vs

COMMERCIAL TAX OFFICER, (ENFORCEMENT)

S G Pandit, J

Dated: June 17, 2019

Appellant Rep by: John Fernandes and Smt Deepa R. Udiyar, Advs.

Respondent Rep by: Ravi V Hosamani, AGA

GST - Respondents initiated proceedings under Section 129 of the Karnataka Goods and Services Tax Act, 2017 and an order was passed directing the petitioner to pay tax and penalty within seven days, failing which action under Section 130 of the Act shall be initiated - petitioner made a representation requesting for release of goods and conveyance but the same was rejected on the ground that confiscation proceedings are pending - petitioner before High Court - Counsel for Revenue points out that the petitioner has filed appeal before the Joint Commissioner of Commercial Taxes (Appeals), Navanagar, Hubballi, Dharwad Division against the order dated 20.05.2019 passed by CTO and that in the appeal itself the petitioner could seek release of goods involved.

Held: When the appeal is pending against the main order, the petitioner could not have filed writ petition for release of goods which are subject matter of appeal - Section 129 and 130 of the Act provides for release of goods on payment of fine - It is open for the petitioner to seek appropriate interim relief in the pending appeal, if law permits - Writ petition is rejected: High Court [para 3, 4]

Petition rejected

JUDGEMENT

Per: S G Pandit:

1. The petitioner is before this Court under Article 226 of the Constitution of India praying to quash the Endorsement No.CTO/ENF-14/Hbl/ 2019-20 dated 08.06.2019 produced at Annexure-W and for a writ of mandamus directing the respondents No.1 and 2 to release the goods covered under the Tax Invoices No.RGHUB 00074 with e-way bill No.181123091 dated 26.04.2019, and tax invoices No.RGHUB 00073 with e-way bill No.161123321680 dated 26.04.2019 respectively and also the conveyance bearing registration No.KA-27/C 1825, absolutely in favor of the petitioner firm, by considering the representations dated 07.06.2019, made by the petitioner to the respondents No.1 to 4 respectively the copies of which have been produced herewith at Annexure-A to D.

2. The learned counsel for the petitioner submits that conveyance bearing No.KA-27/C-1825 was intercepted and searched and seized the goods in the vehicle. The

respondents initiated proceedings under Section 129 of the Karnataka Goods and Services Tax Act, 2017 (for short, the 'Act'). Order dated 20.05.2019 was passed directing the petitioner to pay tax and penalty within seven days, failing which action under Section 130 of the Act shall be initiated. Thereafter, the petitioner made representation to 1st respondent requesting for release of goods and conveyance. The 1st respondent issued endorsement stating that confiscation proceedings are pending, hence rejected petitioner request.

3. Learned Additional Government Advocate points out that the petitioner has filed appeal before the Joint Commissioner of Commercial Taxes (Appeals), Navanagar, Hubballi, Dharwad Division against the order dated 20.05.2019 passed by CTO in Endorsement No.14/HBC/2019-20 PB-172. In the appeal itself the petitioner could seek release of goods involved in the appeal. When the appeal is pending against the main order, the petitioner could not have filed writ petition for release of goods which are subject matter of appeal. Section 129 and 130 of the Act provides for release of goods on payment of fine.

4. Accordingly, the writ petition is rejected. It is open for the petitioner to seek appropriate interim relief in the pending appeal, if law permits.