

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.548 OF 2021**

M/s Balaji Steel Rolling Mills Ltd.

..... **Petitioner(s)**

Vs.

The State of Tripura and ors.

..... **Respondent(s)**

For the Petitioner(s) : Mr. S. Deb, Sr. Advocate.
Mr. K. Debnath, Advocate.

For the Respondent(s) : Mr. K. De, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 03.01.2023.

Whether fit for reporting : YES/NO.

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

JUDGMENT AND ORDER(ORAL)

The case of the petitioner in this instant writ petition is that the vehicles carrying taxable goods of the petitioner entered the State of Tripura a few days later than anticipated and during which period, the validity of the 'e-Way bills' had expired. However, the vehicle was carrying duty-paid goods and there was no attempt to evade duty. Despite this, the authorities imposed fresh levy of duty with the penalty. The petitioner filed a writ petition bearing No.WP(C) No.179 of

2020, before this Court *inter alia* praying for releasing the seized goods in favour of the petitioner. On 03.09.2020, the same was disposed of in the following terms:-

" Having situated thus, we direct the respondents to release the detained materials, on deposit of 25% of the disputed tax and penalty, by the petitioner, as demanded under Annexure-9 collectively and also on securing the total demand by a bond whereby the petitioner shall pledge for payment of for the rest of the demand subject to the outcome of the appeal.

On deposit of 25% of the tax and penalty as aforementioned, and the bond the authority which detained those goods/materials shall release them within three days from the deposit of the said amount and the bond, as indicated above

So far the question of limitation is concerned we are of the considered view that if the appeal is filed within 15 days from today, the period of limitation shall stand extended till the expiry of that period of 15 days."

2. Pursuant thereto, the petitioner filed two appeals bearing No.20/CRB-EW/2020 & 21/CRB/EWB/2020 before the Additional Commissioner of State of Tax within the time limit as stipulated in the said order, the same fell for consideration on 16.04.2021. The Appellate Authority dismissed the appeals filed by the petitioner.

3. Aggrieved thereby, the petitioner has filed this instant petition praying for setting aside and quashing the impugned order dated 16.04.2021.

4. Mr. Somik Deb, learned Sr. counsel assisted by Mr. A. Baran, learned counsel appearing for the petitioner submitted that the petitioner had purchased 2 lots of Mill Machineries. The same was loaded in 2 Nos of trucks which

were to be delivered to the petitioner in Agartala. For the said purpose, on 02.02.2020, the 'e-Way bills' were generated which were valid upto 15.02.2020. But owing to some unforeseen circumstances, the movement of the said vehicles was delayed. The said vehicles reached Churaibari on 17.02.2020. On the ground that 'e-Way bills' have expired, the GST authorities have imposed heavy levy on duty with penalty that is grossly irrational and arbitrary. In pursuance to the order of this Court dated 03.09.2020, the petitioner filed two appeals before the Appellate Authority but the same was dismissed vide the impugned order dated 16.04.2021. But the said order has not rendered substantive and conscionable justice to the petitioner and the same is liable to be quashed and set aside.

5. Mr. K. De, learned Addl. G.A. appearing for the State-respondent submitted that the whole 'e-Way bills' system has now gone online and the same could have been extended on time but was not extended.

6. After hearing both the parties and perusing the evidence on record, this Court is of the opinion that the 'e-Way bills' had expired during the transit and the petitioner was not in a position to ask for its renewal to the competent authority when the vehicle entered into the territory of the State of

Tripura. In view of the said fact, this Court is of the opinion that the order dated 06.04.2021 passed by the Appellate Authority is not just and proper and the same is liable to be set aside.

7. Accordingly, this instant writ petition is allowed and the impugned order dated 16.04.2021 is set aside. Consequently, the petitioner is entitled to all the consequential benefits including the refund.

8. With the above observation and direction, this instant writ petition is disposed of.

JUDGE

CHIEF JUSTICE (ACTING)



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