IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23696 of 2016
&
W.M.P.No.20305 of 2016

Philips India Limited,
(Represented by Kumar Venkitachalam
Manager - Group Tax India - SR)
D.No.8/17, Sunny Side,
3rd Floor, C Block, Shahjee Mohammed Road,
Chennai - 600 006. ... Petitioner

vs.

The Deputy Commercial Tax Officer,
KG Chavadi Checkpost (Out Going)
Coimbatore. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records on the file of the respondent herein in ODR No.187/2016-17 dated 01.07.2016, quashing the same while directing the respondent herein to release the consignment being Medical Equipment Devices and Implants covered by four invoices totaling to a value of Rs.89,35,632/- transported by the petitioners under vehicle bearing registration No.TN29 AM-4536 detained by the respondent in GDR No.187/2016-17 dated 21.06.2016

For Petitioner : Mr.N.Inbarajan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Taxes)

O R D E R

Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing for the respondent. With their consent, the Writ Petition is taken up for final disposal.

2.The petitioner who is a Public Limited Company incorporated under the Companies Act is an assessee on the file of the Deputy Commissioner (LTU)-II Assessment Circle. They are involved in the activity of import and trading of Medical Equipments, Spares and Implants, Consumer Life Style Products. The goods which were transported by the petitioner to M/s.Aster DM Health Care Limited, Cheranallor, Kochi was detained by the respondent in the check post on the ground that verification of the invoices revealed that all the invoices were raised during the month of April and May 2016, but the goods transported and crossed the check post on 21.06.2016, i.e., after a delay of 81 days and the reason given by the petitioner stating that there were some negotiations going on between the petitioner and other Company was found to be not convincing. Accordingly, the objections raised by the petitioner was rejected and the respondent concluded that the invoices raised by the goods in transit were different and it is with an intention to evade tax due to the Government and the offence was compounded under Section 72(1)(a) of the TNVAT Act, 2006. The petitioner on receipt of the impugned order submitted a letter dated 05.07.2016 expressing their willingness for remittance of one time tax under protest. This letter was sent by speed post on 06.07.2016 and stated to have been received by the respondent. But till date, the respondent does not permitted the petitioner to remit the one time tax.

3.The learned Additional Government Pleader (Taxes) appearing for the respondent submitted that the petitioner may be directed to remit the one time tax and thereafter work out their remedy under the Provisions of the Act and the goods may be directed to be released.

4.In the light of the stand taken by the petitioner, there will be a direction to the petitioner to remit the one time tax which has been computed at Rs.13,40,346/- and on such remittance, the goods in question shall forthwith be released. The petitioner is at liberty to file a revision before the revisional authority challenging the compounding notice dated 01.07.2016.

5.With the above direction, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Deputy Commercial Tax Officer,
KG Chavadi Checkpost (Out Going)
Coimbatore.

+1 cc to special Government Pleader (Taxes) sr.38725
+1 cc to Mr.N.Inbarajan Advocate sr.38432

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