IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.11.2016
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
W.P.No.41516 of 2016 &
W.M.P.Nos.35500 & 35501 of 2016

International Flavours & Fragrances India Pvt. Ltd.,
Represented by DV Rangarajan, Manager-Indirect Taxes,
No.1-5, Seven Wells Street, St. Thomas Mount,
Chennani-600 016. .. Petitioner

Versus

The Deputy Commercial Tax Officer,
(Check Post Officer),
Puzhal Check Post,
Chennai-600 086. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the respondent in Goods Detention Notice No.4306/2016-2017, dated 18.11.2016 and the consequent Compounding Notice in TIN 33100840008 / G.D.No.4306/2016-2017, dated 22.11.2016 and to quash the same.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.Joseph Prabakar, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of respondent. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for disposal.

2. The petitioner challenges the Goods Detention Notice dated 18.11.2016 and the Consequential Notice, dated 22.11.2016, computing the tax and compounding fee payable by the petitioner.

3. The only reason given in the ground of detention, dated 18.11.2016 is that the petitioner has furnished the incorrect TIN number of the buyers. This is clarified by the petitioner by stating that the petitioner had furnished their own TIN Number given by the Madhya Pradesh Tax Authorities instead of the buyers' TIN Number. This is found to be correct.

However, the respondent, who is the Check Post Officer, has assumed the role of an Assessing Officer and virtually assessed the petitioner, treating it as a sale transaction. This is wholly without jurisdiction.

4. The learned Additional Government Pleader fairly agrees that the respondent could not have passed such an order, which amounts to an order of assessment. Since the only ground on which the goods were detained has been subsequently explained before this Court, for such violation, the maximum penalty payable is only Rs.2,000/- (Rupees Two Thousand only).

5. In view of the above, the Writ Petition is allowed and the impugned order is set-aside and the petitioner is directed to pay the penalty of Rs.2,000/- and on payment of the same, the goods in question shall be released forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

r n s

To
The Deputy Commercial Tax Officer,
(Check Post Officer),
Puzhal Check Post,
Chennai-600 086.

+1 cc to Mr.Joseph Prabakar Advocate sr 69439
+1 cc to Government Pleader High Court Madras
sr 69601

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