IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.32823 to 32825 of 2015
and
W.M.P.Nos.1 to 3, 1 & 1 of 2015

M/s.Purple Products Private Limited,
Represented by its General Manager,
Mr.Ramesh Yashwant More,
502-Powai Plaza Commercial Buildings,
Central Avenue Road, Hiranandini Gardens,
Powai, Mumbai - 400 076 ... Petitioner in all WPs

Vs.

1.The Commissioner of Customs (Sea Port),
No.60, Rajaji Salai, Customs House,
Chennai - 600 001.

2.The Authorized Officer (The Superintendent of Customs),
J.MATADEE Free Trade Warehousing Zone,
Mannur and Valarpuram Villages,
Sriperumbudur Taluk,
Kancheepuram District.

3.The Specified Officer,
Office of the Development Commissioner,
MEPZ- Special Economic Zone,
GST Road, Tambaram, Chennai - 600 045.

4.The Commercial Tax Officer,
Office of the Assistant Commissioner (CT),
Sriperumbudur Assessment Circle,
Vardarajpuram, Chennai - 602 105.

5.The Assistant Commissioner (CT),
Central Enforcement Wing - II,
Enforcement - II, II Floor,
No.1, Greams Road,
Chennai - 600 006.

6.The Commissioner of Commercial Taxes,
Chepauk, Chennai - 600 005.

7.M/s.Seaways Shipping and Logistics Ltd,
J.MATADEE Free Trade Zone Pvt Lt, FTWZ,
Mannur and Valarpuram Villages,
Sriperumbudur Taluk,
Kancheepuram District. ... Respondents

Prayer in W.P.No.32823 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records comprised in the impugned communication dated 14.09.2015 on the file of the 4th respondent, quash the same.

Prayer in W.P.No.32824 & 32825 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records comprised in the impugned notice in Ref: VSI-6//119/2015 dated 18.09.2015 on the file of the 5th respondent, quash the same.

For Petitioner (in all) : M/s.Jayalakshmi.P for Mr.K.Magesh

For Respondents (in all) : Mr.A.P.Srinivas Standing Counsel for customs for R1 and R2

Mr.R.Swarnavel, GA for R4 to R6

No appearance for R3 and R7

ORDER

In these two writ petitions, the writ petitioner has challenged notices dated 14.09.2015, 18.09.2015 and 18.09.2015. By these notices the petitioner has been merely asked to submit relevant documents for the interstate movement of the imported goods from a warehouse of its agent namely M/s.Seaways Shipping and Logistics Ltd. Located in Free Trade Zone in Sriperumbudur.

2.These writ petitions ought not to have been entertained as they were intended to stifle the proposed investigation based on the view entertained by the authorities under the provisions of the Tamil Nadu VAT Act, 2006 that supplies effected from a warehouse located in a Free Trade Zone to Customers of the petitioner in Domestic Tariff Area were liable to tax under the provisions of the Tamil Nadu VAT Act, 2006.

3.The petitioner is an importer of Tin and Mercury from out of country had cleared the goods from the premises of M/s.Seaways Shipping and Logistics Ltd.located in a Free Trade Zone on payment of Customs Duty and Special Additional duty and had effected supply to various customers of the petitioner based on the invoices raised by the petitioner from its head office at Mumbai.

4.Imported goods were apparently seized and the petitioner was asked to furnish details of sales invoice and other documents for movement of the goods from the Free Trade Warehouse of the said M/s.Seaways Shipping and Logistics Ltd., located in Free Trade Zone on the ground that since the petitioner was not registered under the Tamil nadu Vat Act, 2006 and movement on the strength of KK Forms as transport documents was without payment of Value Added Tax under the Provisions of the Tamil Nadu VAT Act, 2006.

5.Imported goods were cleared from M/s.Seaways Shipping and Logistics Ltd.located in Free Trade Zone to various petitioner's customers both within and outside the state.

6.It is noticed that after admission of these writ petitions an interim order came to be passed on 16.10.2015 pursuant to which the goods imported were directed to be released.

7.On 09.01.2017, this Court had adjourned these Writ Petitions to ascertain whether these writ petitions had become infructous. Accordingly, these cases were directed to be listed for hearing on 14.2.2017. However, by an order dated 14.2.2017, the petitioner took time for filing rejoinder and accordingly the case was adjourned to 13.4.2017. Thereafter, these cases were listed before this Court only during 2020.

8.Though elaborate submissions were made, it is noticed that the Authority for Clarification and Advance Ruling by an order/clarification dated 13.11.2015 in the case of M/s.Sizer Metals Private Limited had clarified that supplies effected from FTWZ to a buyer in domestic tariff area was liable to tax.

9.Therefore, the present Writ Petition ought not to have been dismissed. Be that as it may, earlier an interim relief was also given to the petitioner. Further, the Tamil nadu VAT Act, 2006 has been replaced with Tamil nadu Goods and Supply Act, 2017. Therefore, the issue that is sought to be raised in the present Writ petition is no longer of any relevance for the period after 01.07.2017.

10.Suffice to state, the petitioner should furnish the details of the transactions/supplies to various customer both within and outside the State of Tamil Nadu of the imported goods by the petitioner from the premises of M/s.Seaways Shipping and Logistics Ltd.located in Free Trade Zone.

11.The Petitioner is therefore directed to furnish the details called for by the 4^{th} to 6^{th} respondent. They may also call for such further information as may be required by issuing a notice to the petitioner within a period of 30 days from date of receipt of this order.

12.Such information shall be furnished by the petitioner within a period of 30days or time as extended time may be specified by the official respondents. Respondent shall thereafter issue appropriate notice in accordance with law and proceed and complete the proceedings within a period of 6 months from the date of receipt of this order. Needless to state, the petitioner will not take any ground of limitation due to the pendency of these writ petitions.

13.These writ petitions stands disposed with the observation. No cost. Consequently, connected Miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

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Chepauk, Chennai - 600 005.

+3 ccs to Mr.K.Magesh Advocate sr10331
+1 cc to Special Government Pleader(Taxes) sr11334

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and
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aa14/07/2020