IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P. No. 2885 of 2025
and
W.M.P. Nos.3191 to 3193 of 2025

M/s.TIL Healthcare Private Limited
Represented by its Authorized Signatory
Mr.R.Vijayaragavan
Having its Registered office at
'Tagros House', 3rd Floor, New No.4 (Old No.10)
Club House Road, Anna Salai
Chennai-600002. ...Petitioner

-vs-

The Deputy Commissioner of Customs (BRC-DBK)
Office of the Commissioner of Customs (IV)
Customs House, 5th Floor, No.60, Rajaji Salai
Chennai-600001. ...Respondent

Prayer : This writ petition has been filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified Mandamus, calling for the records of the respondent, culminating in the impugned Order-in-Original bearing No. 82355 of 2021 dated 27th March 2021 passed by the Respondent and to set aside the same as being arbitrary against the principles of reasonableness and violative of the principles of natural justice, and to consequently direct the Respondent, to refund the said sum of Rs.29,16,785/-(Rupees Twenty Nine Lakhs Sixteen Thousand Seven Hundred and Eighty Five Only) paid under protest by the Petitioner towards settlement of the amount claimed in terms of the Impugned Order dated 27th March 2021 along with interest at the prevailing bank rate from the date of payment of the same by the Petitioner, under protest that is on and from 24th December, 2024 , till the date of refund of the same by the Respondent, and also direct the Respondent to *de nova* consider the issue on merits by providing the Petitioner with an opportunity of personal hearing and filing its detailed and filing its detailed reply as well as copies of the relevant documents.

For Petitioner : Mr.S.Raghunathan

For Respondents : Mr.B.Ramana Kumar

O R D E R

This writ petition has been filed challenging the impugned order-in-original dated 27.03.2021 passed by the respondent against the petitioner confirming the demand made against the petitioner for recovery of availed Duty Drawback amount of Rs.28,16,785/- against Shipping Bills disclosed in the said order. The respondent has also imposed penalty of Rs.1,00,000/- on the petitioner as per the provisions of Section 117 of the Customs Act.

2. The learned counsel for the petitioner would now submit that pursuant to the impugned order-in-original, the petitioner has paid the Duty Drawback amount and the penalty amount as stipulated in the impugned order-in-original. However, he would submit that since the petitioner is not liable to pay the said amount and the said amount was paid under protest and since the principles of natural justice

have been violated, the impugned order has to be quashed and the matter has to be remanded back to the very same respondent for fresh consideration on merits and in accordance with law, after affording an opportunity of personal hearings to the petitioner and also permitting the petitioner to submit their explanations.

3. The petitioner categorically contends that the export obligations in respect of the subject Shipping Bills have been fulfilled by the petitioner. The petitioner contends that on account of the Covid-19 and on account of the closure of the petitioner's office during that period, the petitioner did not receive the show cause notice and also was unable to state their defences properly before the respondent. According to the petitioner, even though the petitioner had complied with the export obligations, the respondent had passed the impugned order-in-original, as if the petitioner is liable to pay the Duty Drawback amount stipulated under the impugned order-in-original.

4. The learned counsel for the petitioner also drew the attention of this Court to the letter dated 25.03.2021 sent by the petitioner to the respondent, which has been acknowledged by the respondent on 29.03.2021, which confirms that the Export Realization Certificates pertaining to the subject Shipping Bills have been submitted by the petitioner to the respondent. Therefore, according to the learned

counsel for the petitioner, the petitioner is not liable to pay the amounts as stipulated in the impugned order-in-original. He would submit that once the petitioner is granted with an opportunity to place all documents, which includes Export Realization Certificates in respect of the subject Shipping Bills, the petitioner will be able to convince the respondent that they are not liable to pay any amount as stipulated in the impugned order-in-original.

5. A counter-affidavit has been filed by the respondent reiterating the contents of the impugned order-in-original. However, in paragraph No.5 of the counter-affidavit, the respondent has acknowledged the fact that the petitioner has paid a sum of Rs.28,16,795/- towards Duty Drawback amount and another sum of Rs.1,00,000/- towards penalty as stipulated in the impugned order-in-original under protest.

6. Since the petitioner has paid the amount as stipulated in the impugned order-in-original under protest and since the petitioner has produced documents before this Court to substantiate their case that they have fulfilled the export obligations pertaining to the subject Shipping Bills, this Court is of the considered view that they must be granted with an opportunity to defend their case that they are not liable to pay the Duty Drawback amount and penalty as stipulated under

the impugned order-in-original, that too when they have stated that only on account of Covid-19 and on account of the closure of their office during that period, they could not properly attend the hearings pertaining to the impugned proceedings.

7. This Court is of the considered view that if the petitioner is not permitted to raise objections with regard to the impugned order-in-original, they will be put to irreparable loss and hardship as they have categorically contended before this Court that they are not liable to pay the amounts as stipulated in the impugned order-in-original and further, having paid the amounts as stipulated in the impugned order-in-original under protest, there is also no revenue loss caused to the respondent, as they have already received the duty though paid under protest. This Court has not expressed its opinion on merits of the petitioner's contentions. It is for the respondent to consider the same on merits and in accordance with law, when the matter is remanded back to the respondent for fresh consideration.

8. For the foregoing reasons, the impugned order-in-original dated 27.03.2021 passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law by adhering to the principles of natural justice and by

affording personal hearing to the petitioner. The respondent is directed to pass final orders within a period of twelve(12) weeks from the date of receipt of a copy of this order.

9. Accordingly, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

18.07.2025

Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order
NCC : Yes / No

Maya

To

The Deputy Commissioner of Customs (BRC-DBK)
Office of the Commissioner of Customs (IV)
Customs House, 5th Floor, No.60, Rajaji Salai
Chennai-600001.

ABDUL QUDDHOSE,J.

Maya

W.P. No. 2885 of 2025

Dated : 18.07.2025