

W.P.Nos.21524 & 21525 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 18.08.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.21524 & 21525 of 2022

&

W.M.P.No.20543 of 2022

Colgate Palmolive (India) Limited
Rep.by its Authorized Signatory
Pallav Bansal
Second Floor, Qaisser Tower
KNK Road, Nungambakkam
Chennai – 600 006.
Having its Branch at
6000 Central Expressway,
Sricity, Andhra Pradesh – 517 546.
Vs.

...Petitioner in both W.Ps.

Assistant Commissioner (ST)
Adjudication
Intelligence – I
Chennai – 600 006.

...Respondent in both W.Ps.

Prayer in W.P.No.21524 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certioriarified Mandamus to call for the impugned proceedings of the Respondent passed in FORM GST MOV-06-ORDER OF DETENTION DATED 28.06.2022 and quash the same and further direct the Respondent to release the consignment at once as the detention of the consignment is illegal and arbitrary in the facts and circumstances of the case.



Prayer in W.P.No.21525 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned proceedings of the Respondent passed in FORM GST MOV-09-ORDER OF DEMAND OF TAX AND PENALTY DATED 08.07.2022 and quash the same as the demand of penalty amount of Rs.14,33,934/- U/s. 129 (1) is illegal and arbitrary in the facts and circumstances of the case and issue any other writ.

In both W.Ps.

For Petitioner : Mr.N.Murali

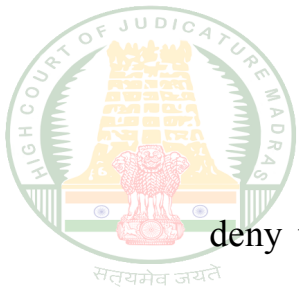
For Respondent : Mr.V.Prashanth Kiran
Government Advocate.

COMMON ORDER

Learned counsel for the petitioner seeks permission to withdraw W.P.No.21525 of 2022 with liberty to file an appeal before the first appellate authority. He has also made an endorsement to that effect.

2. In light of the endorsement made, W.P.No.21525 of 2022 stands dismissed as withdrawn, however granting liberty as sought for to enable the petitioner to file an appeal before the first Appellate Authority. Appeal, if filed within a period of two (2) weeks from today, shall be taken on file without reference to limitation, if it is beyond the time limit, but ensuring compliance with all other statutory conditions, including the pre-deposit.

3. As far as W.P.No.21524 of 2022 is concerned, impugned order dated 28.06.2022 being MOV-06, detains (details of vehicle in question) alleging that same was not covered by valid documents, however the petitioner would



deny the allegations made. Since the petitioner has been granted liberty to challenge the demand of tax and penalty, it would be appropriate that the petitioner makes its submissions in this regard before the first Appellate Authority.

4. The provisions of Section 129 of the Central Goods and Services Tax Act, 2017 (in short 'Act') dealing with detention, seizure and release of goods and conveyances in transit, permit the release of the goods upon payment of penalty, equal to 200 percent. The provision, to the extent to which it is relevant, reads as under:-

“129. Detention, seizure and release of goods and conveyances in transit

(1). Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,-

(a). On payment of penalty equal to two hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

5. Learned counsel for the petitioner, on instructions, submits that the petitioner is willing to furnish a bank guarantee, in terms of the provisions of



Section 129(1)(a) of the Act as extracted above and the learned Government Advocate, on instructions, would submit that nothing stands in the way of the respondent accepting the bank guarantee.

6. Thus, the petitioner is granted liberty to furnish bank guarantee in terms of Section 129(1)(a) of the Act, upon furnishing of which impugned order dated 28.06.2022, will stand quashed. The consignment in question will be released within 48 hours from time and date when the bank guarantee is furnished to the respondent.

7. W.P.No.21524 of 2022 is disposed in the aforesaid terms. Connected writ miscellaneous petition is closed. No costs.

18.08.2022

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Index : Yes/No

Speaking Order/Non speaking Order

Note:- (i) Registry is directed to issue order copy on or before 22.08.2022

(ii) Registry is also directed to return the original impugned order in W.P.No.21525 of 2022 to the learned counsel for the petitioner.

To

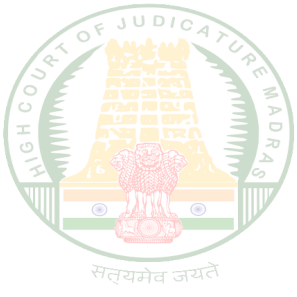
Assistant Commissioner of Income Tax
Central Circle 2 (3), Investigation Building,
Chennai.

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citation no. 2022 (8) GSTPanacea 153 HC Madra



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DR.ANITA SUMANTH,J.
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