IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.13335 to 13337 of 2015

M/s.Page Industries Limited,
Rep. By its Chief Manager - Finance
Mr.Kemparaju S.G.
Abbaiah Reddy Industrial Area,
Jockey Campus, 6/2 and 6/4,
Hongasandra, Begur Hobli,
Bangalore - 560 068. ... Petitioner in all the writ petitions

Vs.

1.Commissioner of Customs (Appeals - II),
Office of the Commissioner of Customs (Appeals-II),
Customs House,
60, Rajaji Salai, Chenna i- 600 001.

2.The Deputy Commissioner of Customs (Group - 3&4),
Office of the Commissioner of Customs (Seaport - Import),
Custom House, Chennai - 600 001. ... Respondents in all the writ petitions

PRAYER IN W.P.No.13335/15: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records of the impugned Order-in-Appeal No.C.Cus II No.397/2015, dated 31.03.2015 passed by the first respondent and quash the same as far as the observation and directions contained therein and direct the second respondent to pass a speaking order in respect of Bill of Entry No.6382741, dated 08.08.2014, within the specified period under Section 17(5) of the Customs Act, 1962, uninfluenced by the observation and directions contained in the aforesaid impugned order of the first respondent and pass such further orders.

PRAYER IN W.P.No.13336/15: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records of the impugned Order-in-Appeal No.C.Cus II No.398/2015, dated 31.03.2015 passed by the first respondent and quash the same as far as the observation and directions contained therein and direct the second respondent to pass a speaking order in respect of Bill of Entry No.6381744, dated 08.08.2014, within the specified period under Section 17(5) of the Customs Act, 1962, uninfluenced by the observation and directions contained in the aforesaid impugned order of the first respondent and pass such further orders.

PRAYER IN W.P.No.13337/15: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records of the impugned Order-in-Appeal No.C.Cus II No.399/2015, dated 31.03.2015 passed by the first respondent and quash the same as far as the observation and directions contained therein and direct the second respondent to pass a speaking order in respect of Bill of Entry No.6468065, dated 18.08.2014, within the specified period under Section 17(5) of the Customs Act, 1962, uninfluenced by the observation and directions contained in the aforesaid impugned order of the first respondent and pass such further orders.

In All the Writ Petitions:
For Petitioner :Mr.C.Saravanan
For Respondents :Mr.V.Sundareswaran

COMMON ORDER

Challenging the impugned orders passed by the first respondent / the Commissioner of Customs (Appeals-II), Chennai, M/s.Page Industries Limited, Bangalore / petitioner herein, have filed the present writ petitions.

2. Assailing the impugned orders, it is submitted by the learned counsel for the petitioner that the first respondent has not passed a speaking order as per Section 17(5) of the Customs Act, 1962. Drawing the notice of this Court page No.87 of the typed set of papers, it is submitted that the respondent has admitted that the Group, which is bound to issue a speaking order under Section 17(5) of the Customs Act, 1962, has not issued the speaking order. It is further submitted that the Commissioner of Appeals, while relying on the downloaded particulars from the website of junglee.com, snapdeal.com and amazon.in, has proceeded to decide the matter without giving an opportunity to the petitioner to cross-examine the materials relied on by him.

3. In my opinion, the above said argument of the petitioner cannot be a basis to circumvent the appeal remedy available for the petitioner as per Section 129(A) of the Customs Act, 1962, for, the said Section provides an efficacious alternative remedy before the Appellate Tribunal against the order or the decision passed by the Commissioner of the Customs as an adjudicating authority. That apart, in the impugned order itself, it has been clearly stated that

any person aggrieved by the order can prefer an appeal to the CESTAT under Section 129A of the Customs Act. Therefore, I am of the view that these writ petitions filed challenging the impugned orders, without availing an alternative remedy provided under Section 129A of the Customs Act, 1962, cannot be maintained and the writ petitions are liable to be dismissed granting liberty to the petitioner to avail the statutory remedy provided under the Customs Act, 1962.

4. In fine, for the reasons stated above, the writ petitions are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.Commissioner of Customs (Appeals - II),
Office of the Commissioner of Customs (Appeals-II),
Customs House,
60, Rajaji Salai, Chenna i- 600 001.

2.The Deputy Commissioner of Customs (Group - 3&4),
Office of the Commissioner of Customs (Seaport - Import),
Custom House, Chennai - 600 001.

1 cc to Mr..V.Sundareswaran ,Advocate, SR.No.24004

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BR(CO)
PMK.29.4.2015