

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.16074 of 2015 and M.P.No.1 of 2015

M/s.Aditya International Ltd.,
Represented by its Director,
Mr.Aditya Agarwal
Suite No.226 Bussa Industrial
Premises Coop. Soc. Ltd.
Century Bazar Lane
Prabhadevi
Mumbai 400 025

... Petitioner

Vs.

1. The Commissioner of Customs (Chennai IV)
Custom House,
No.60 Rajaji Salai,
Chennai 600 001.

2. The Assistant Commissioner of Customs,
Group 7B,
Custom House, No.60 Rajaji Salai,
Chennai 1.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to allow filing of manual bill of entry and extend benefit of additional duty exemption in terms of Notification No.30/2004 CE dt 9.7.2004 in respect of silk fabrics covered by Bill of Lading No. HBL1504161351 dt 22.4.2015 and imported by the petitioner herein by following the ratio of the judgment of the Honourable Supreme Court in the case of M/s.ITC Ltd. against Commissioner of Customs (Import and General) New Delhi as reported in 2015-TIOL-74-SC-CUS.

For Petitioner :Mr. S.Murugappan

For Respondents :Mr.Mohan Murali, Standing Counsel

O R D E R

This writ petition has been filed for the issuance of a writ of mandamus directing the respondents herein to allow filing of manual bill of entry and extend benefit of additional duty exemption in terms of Notification No.30/2004 CE dt 9.7.2004 in respect of silk fabrics covered by Bill of Lading No. HBL1504161351 dated 22.4.2015

and imported by the petitioner herein by following the ratio of the judgment of the Honourable Supreme Court in the case of M/s.ITC Ltd. against Commissioner of Customs (Import and General) New Delhi, reported in 2015-TIOL-74-SC-CUS.

2. In identical circumstances, this Court, in W.P.No.33952 of 2014 by order dated 13.01.2015, has held as follows:-

"This Court has passed an order dated 27.10.2010 in W.P.Nos.23711 to 23713 of 2010 which is held as follows

It is stated that on an earlier occasion while dealing with the same issue, this Court passed an order in W.P.No.2301 of 2010 (M/s.SHIV SHANTI EXIM PVT. LTD v. THE COMMISSIONER OF CUSTOMS) by order dated 15.02.2010 as follows

".....
However, considering the nature and scope of the prayer claimed in the writ petition and also taking note of the fact that the subject matter of goods are lying for a long time, the writ petition stands disposed of with a direction against the respondents to release the above said Bill of Entry subject to the condition that the petitioner furnishing a bank guarantee to the entire value of Additional Duty of Customs (CVD) to the satisfaction of the second respondent, which should be kept alive till adjudication process is completed. It is made clear that as and when the bank guarantee is furnished, the respondents shall forthwith release the goods".

3. Following the same, the writ petitions are disposed of and the respondents are directed to release the subject goods concerned in respect of the above said Bill of Entries subject to the condition that the petitioner furnishes bank guarantee to the entire value of Additional Duty of Customs (CVD) to the satisfaction of the second respondent, which should be kept alive till adjudication process is completed. It is made clear that as and when the bank guarantee is furnished, the respondents shall forthwith release the goods.

The learned counsel for the petitioner also sought for, to allow him, to file manual bill of entry. However, it is open to the respondent to accept them.

The writ petition is disposed of, accordingly. Consequently, connected Miscellaneous Petition is closed. No costs".

3. Following the above said order passed in W.P.No.33952 of 2014 dated 13.01.2015, this writ petition is disposed of by directing the respondents to release the subject goods concerned in respect of the above said Bill of Entry subject to the condition that the petitioner furnishes bank guarantee to the entire value of Additional Duty of Customs (CVD) to the satisfaction of the second respondent, which should be kept alive till adjudication process is completed. It is made clear that as and when the bank guarantee is furnished, the respondents shall forthwith release the goods. As far as permission with regard to filing of manual bill of entry is concerned, it is open to the respondent to accept the same.

No costs. Connected miscellaneous petition is closed.

rg

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Customs (Chennai IV)
Custom House,
No.60 Rajaji Salai,
Chennai 600 001.

2. The Assistant Commissioner of Customs,
Group 7B,
Custom House, No.60 Rajaji Salai,
Chennai 600 001

+ 1 cc to Mr.S.Murugappan, Advocate SR 41513

+ 1 cc to M/s.Mallika Srinivasan, Advocate SR 42466

msm(co)
prk21/8

W.P.No.16074 of 2015