

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.21426 and 21427 of 2015

M/s.Sanjivani Non Ferrous Trading Private Limited

Rep. By its General Manager

Mr.Nagaraajan CP

No.102, R.K.Complex, Door No.02,

Vengadu Village, Pillaipakkam(Post)

Sriperumbudur Taluk

Kancheepuram Dist.602 105

..Petitioner

in both the Writ Petitions

-Vs-

1.The Commissioner of Customs

Chennai-IV Commissionerate

Custom House

No.60,Rajaji Salai

Chennai-600 001

..1st Respondent in both
the Writ Petitions

2.The Joint Commissioner of Customs

(Group 7H)

Custom House,

No.60, Rajaji Salai

Chennai-600 001

3.The Deputy Commissioner of Customs

(Group 7H)-W.P.21426/2015

Custom House,

No.60, Rajaji Salai

Chennai-600 001

..Respondents in 2 & 3
in Writ Petitions
21426/15

4.The Joint Commissioner of Customs

(Group 3 & 4)

..2nd Respondent in
WP.NO.21427/15

5.The Deputy Commissioner of Customs

(Group 3 & 4)

..3rd in Respondent in
WP.21427/15

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 3rd respondent herein to issue a speaking order for assessment of the Aluminium Scrap covered by Bills of Entry Number and Dates as specified in the Annexure to this petition within a time frame.

For petitioner : Mr.S.Murugappan

For respondents : Mr.V.Sundareswaran, Senior Panel Counsel
for R1 to R3.

O R D E R

These Writ Petitions are filed seeking direction to the 3rd respondent to issue a speaking order for assessment of the Aluminium Scrap covered by Bills of Entry Number and Dates as specified in the Annexure to the writ petitions.

2. Mr.V.Sundareswaran, learned Standing Counsel for the respondents-Department takes notice.

3. The petitioner-firm is engaged in the import business and in trading of imported goods. In the course of its activities, the petitioner-firm imported consignments of aluminium scrap imported from various countries viz., U.A.E., Sweden, France, USA etc. The unit price of aluminium scrap was declared based on sales contract entered into between the buyer and the supplier. When the goods reached the Port of Chennai, the petitioner firm filed the Bills of Entry and submitted the required documents for proper assessment, examination of cargo and payment of duty for the goods imported. However, the third respondent did not accept the declared value as mentioned in the invoices and enhanced the unit price for all the bills of entry mentioned by the petitioner. Since the enhancement of value was done by the 3rd respondent without providing any evidence to the petitioner-firm, the petitioner-firm sought for clearance of goods to avoid demurrage and detention charges vide letter dated 16.03.2015. In this regard, the petitioner firm after clearance of the cargo, requested the first respondent-Commissioner of Customs, Chennai IV Commissionerate for issue of speaking order in terms of Section 17(5) of the Customs Act. Subsequently, reminder was also sent by the petitioner-firm, requesting the 3rd respondent for issue of speaking order. Since no action was taken on the said request, the petitioner-firm has come up before this Court with the present writ petition.

4. This Court finds no embargo to direct the third respondent-The Deputy Commissioner of Customs, (Group 7H)-W.P.21426/2015; (Group 3 & 4) - W.P.21427/2015 to pass a speaking reasoned order. Accordingly, the third respondent is directed to pass a speaking reasoned order under Section 17(5) of Customs Act in respect of assessment of Aluminium scrap covered by Bills of Entry specified by the petitioner-firm, within a period of one week from the date of

receipt of a copy of this order.

5. The Writ Petition is disposed of with the above observation.
No costs.

-s/d-

Assistant Registrar (CSV)
dt:31/08/2015

True Copy

Sub-Assistant Registrar

nvsri
To

- 1.The Commissioner of Customs
Chennai-IV Commissionerate
Custom House, No.60,Rajaji Salai, Chennai-600 001
- 2.The Joint Commissioner of Customs
(Group 7H)
(Group 3 & 4) -
Custom House, No.60, Rajaji Salai, Chennai-600 001
- 3.The Deputy Commissioner of Customs
(Group 7H)-
Custom House, No.60, Rajaji Salai, Chennai-600 001
- 4.The Joint Commissioner of Customs
(Group 3 & 4)
Custom House, No.60, Rajaji Salai, Chennai-600 001
- 5.The Deputy Commissioner of Customs (Group 3 & 4)
Custom House, No.60, Rajaji Salai, Chennai-600 001

+1 cc to M/S.V.Sundareswaran Advocate sr.36363

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