

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.8.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24013/2015 and
M.P.No.1 of 2015

M/s. Winstar Marketing India
Private Limited No.30 31 Sundar Nagar
Alapakkam Main Road Alapakkam Chennai-116
Rep. by its Managing Director Shri. T.J.
Jezreel Hussain ... Petitioner

Vs

- 1 The Chief Commissioner of
Customs Custom House No.60 Rajaji Salai
Chennai-600 001.
- 2 Commissioner of Customs
Group-6 Chennai II Commissionerate Custom
House No.60 Rajaji Salai Chennai-600 001.
- 3 The Joint Commissioner
Of Customs (Group 6) Chennai II
Commissionerate Custom House No.60 Rajaji
Salai Chennai-600 001.
- 4 The Deputy Commissioner of
Customs (Group 6) Chennai II
Commissionerate Custom House No.60 Rajaji
Salai Chennai-600 001.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of mandamus directing the Respondents to assess and clear the imported goods viz. viz. Furnitures covered under Bill of Entry No.9868109 dated 13.07.2015 in terms of section 110A of Custom Act 1962 read with Customs (Provisional Duty Assessment Regulations) 2011.

For Petitioner :Mr.B.Satish Sundar
For Respondents :Mr.V.Sundareswaran,
Senior Standing Counsel

ORDER

The writ petition is filed for the issuance of a writ of mandamus directing the respondents to assess and clear the imported goods viz. viz. Furnitures covered under Bill of Entry No.9868109

dated 13.07.2015 in terms of section 110A of Custom Act 1962 read with Customs (Provisional Duty Assessment Regulations) 2011.

2. The petitioner entity imported furniture from Malaysia vide invoice No.105056 and Bill of Entry No.9868109. The clearing agents of the petitioner entity was informed by the officers attached to the fourth respondent that the value declared by them in respect of the subject goods was not acceptable to them for the purposes of assessment and that the value will be enhanced. The petitioners had informed that they were willing to pay the duty as demanded from them under protest vide communication dated 10.07.2015 followed by a reminder dated 27.07.2015. However, the goods were directed to be assessed on first appraisement basis and no decision was taken in respect of their request of payment of duty under protest. Under the circumstances, the fourth respondent was requested to issue a 'Speaking Order' within 15 days in terms of Section 17(5) of the Customs Act, 1962 for non acceptance of the declared values and was informed of the mounting demurrage and container detention charges. Copy of the said communication was also made to the office of the 1st to 3rd respondents. Since there is no positive response to the said communications and demand of the petitioner entity, the present writ petition has been filed for the relief as stated above.

3. Heard the learned counsel for the petitioner and the learned senior standing counsel for the respondents. The necessary documents have also been perused.

4. Provisional release in terms of Section 110 A of the Customs Act, 1962 read with Customs (Provisional Duty Assessment) Regulations 2011 could have been made, followed by further proceedings. Hence, the detained consignment shall be released on payment of Rs.2,59,688/- ***and** 50% of the differential duty and for the remaining 50% of the differential duty, a bond be executed by the petitioner and on such compliance, the goods shall be released forthwith. The respondent is also directed to pass a speaking order which shall be served on the petitioner and it is open to the petitioner to testify the same in the manner known to law.

5. The Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar
19.08.2015

*Corrected as per order of this Court, dated 28.08.2015

Sd/-

Assistant Registrar
31.08.2015

True Copy

Sub Assistant Registrar

To

- 1 The Chief Commissioner of
Customs Custom House No.60 Rajaji Salai
Chennai-600 001.
- 2 Commissioner of Customs
Group-6 Chennai II Commissionerate Custom
House No.60 Rajaji Salai Chennai-600 001.
- 3 The Joint Commissioner
Of Customs (Group 6) Chennai II
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Salai Chennai-600 001.
- 4 The Deputy Commissioner of
Customs (Group 6) Chennai II
Commissionerate Custom House No.60 Rajaji
Salai Chennai-600 001.

- 1 cc to Mr.B.Satish Sundar, Advocate Sr.No.43294
1 cc to Mr.V.Sundareswaran, , Advocate Sr.No. 43437

Orders to be
substituted
already
despatched on
20.08.2015

ctk(co)
pmk.19.8.2015
pmk.31.8.2015

W.P.No.24013/2015

सत्यमेव जयते

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