IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.2588 and 2589 of 2015
and M.P.Nos.1 and 2 of 2015 (4 MPs)

M/s.Wellman Distributors
Rep. By its Proprietor
Mr.Jaichand Mishra
No.37/6, I Floor, East Mada Street
Thiruvanmiyur
Chennai-600 041 .. Petitioner in both the above WPs.

Vs.

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

2. The Assistant Commissioner of Customs
   (Group-7H) Custom House
   No.60, Rajaji Salai
   Chennai-600 001 .. Respondents in both the above WPs.

Prayer in W.P.2588/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent culminating in the order of assessment made in Bill of Entry No.8081144 dated 23.01.2015 and quash the same and direct the respondents to carry out re-assessment based on the value declared by the petitioner firm.

Prayer in W.P.2589/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent culminating in the order of assessment made in Bill of Entry No.8081292 dated 23.01.2015 and quash the same and direct the respondents to carry out re-assessment based on the value declared by the petitioner firm.

For Petitioner : Mr.S.Murugappan

For Respondents : Mr.K.Ramakrishna Reddy.
Senior Panel Counsel for respondents

O R D E R

The Writ Petitioner has come forward with the aforesaid prayer, challenging the order of the 2nd respondent dated 23.01.2015 seeking to quash the same and to direct the respondents to carry out re-assessment based on the value declared by the petitioner firm.

2.Heard both sides.

3. The case of the petitioner is that they are engaged in import trade and in the course of its trading activities, they placed orders for import of unbranded LED Bulbs made of plastic from China. The petitioner submitted that they filed Bill of Entry dated 23.01.2015 for completion of assessment and clearance of the goods upon payment of import duties; however, the second respondent has enhanced the value for the purpose of assessment. According to the petitioner, for the purpose of charging import duty, the respondents are required to determine the valuation in terms of Section 14 of Customs Act, 1962. Petitioner further relied Rule 3 and 10 of Customs Valuation (Determination of Value of Imported Goods) Rules 2007 to state that the transaction value has to be accepted for assessment.

4. On the other hand, Mr.Ramakrishna Reddy, learned counsel appearing for respondents by filing counter affidavit dated 02.03.2015 submitted that the value of the imported goods for charging of Customs duty shall be based on the actual value of the subject goods in the place of origin and not based on the Bills of Entry filed by the importers; it is the duty of the authorities to find out the value of the imported goods and on verification, if it is found that the goods are undervalued, the authorities got jurisdiction to redetermine the actual value of the goods imported and as such, the contention of the petitioner will be considered in the adjudication proceedings. He further submitted that for the provisional release of goods, the petitioner may be directed to pay 50% of the amount on the differential duty to the satisfaction of the Customs Authorities and also to furnish Bank Guarantee for the remaining 50% of the impugned customs duty.

5. Considering the submission made on both sides, this Court without expressing anything on the merits of the matter, gives direction as below:-

(i) The petitioner is directed to pay 50% of the differential duty to the satisfaction of the Customs Authorities;

(ii) The petitioner shall furnish Bank Guarantee for the remaining 50% of the impugned customs duty;

(iii) On compliance of the above directions, goods shall be provisionally released by the respondents to the petitioner and the respondents are directed to complete the adjudication proceedings within a period of three months from the date of receipt of a copy of this order.

6. The Writ Petitions are disposed of with the above direction. No costs. Connected MPs are closed.

-s/d-
Assistant Registrar(CS-II)
Dt:9/3/2015

True Copy

Sub-Assistant Registrar

To

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

2. The Assistant Commissioner of Customs
(Group-7H) Custom House
No.60, Rajaji Salai
Chennai-600 001

+ 2 ccs to Mr.S.Murugappan, Advocate SR 124584, 12459

+ 2 ccs to Mr.K.Ramakrishna Reddy, Advocate SR 12441 12242

msm(co)
prk9/3