IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.37820 of 2015
and
M.P.No.1 of 2015

M/s.Babu Belts,
Rep. by its Power of Attorney
Mr.R.Anand Babu,
No.38, Rajbhavan Building,
Stanes 2nd Street, Avinashi Road,
Thirupur - 641 602. .. Petitioner

Vs.

1. The Commissioner of Customs,
Air Cargo Complex,
New Customs House,
Meenambakkam,
Chennai - 600 027.

2. The Deputy Commissioner of Customs (SIIB),
Air Cargo Complex,
New Customs House,
Meenambakkam,
Chennai - 600 027.

3. The Appraiser (SIIB),
Air Cargo Complex,
New Customs House,
Meenambakkam,
Chennai - 600 027. .. Respondents

* * *

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents herein to carry out the assessment of the goods covered by Bill of Entry for Invoice No.3731003686, dated 22.06.2015 in accordance with law.

* * *

For Petitioner : Mr.S.Murugappan

For Respondents : Mr.V.Sundareswaran, Standing Counsel for C & E

O R D E R

Heard the learned counsel for the petitioner and Mr.V.Sundareswaran, learned Standing Counsel, who took notice for the respondents and with their consent, the main writ petition itself is taken up for disposal.

2. The writ petition is filed seeking a direction to the respondents to carry out the assessment of the goods covered by Bill of Entry for Invoice No.3731003686, dated 22.06.2015 in accordance with law.

3. The petitioner is a Partnership firm and doing business in import and trading of textile machinery accessories including knitting machinery needles. The petitioner has been importing Knitting Machine Needles from Sugiura Knitting Needle Manufacturing Company Limited, Japan, for several years.

4. The petitioner imported some goods during June 2015 for a sum of 14,705.50 EURO which, according to them, comes to Rs.12,03,000/- and submitted Bill of Entry for assessment and clearance to the respondents. However, the goods were not released as on date, and the petitioner understands that the third respondent raised suspicion of undervaluation of the goods based on the imports made by another firm. In this regard, the petitioner firm was served with summons and the petitioner also appeared before the third respondent on several occasions.

5. Thought the petitioner submitted representations to the respondents on 14.08.2015, 14.09.2015 and 21.09.2015, there is no response from the respondents and the goods are yet to be released. However, to their shock and surprise, a Show-Cause Notice dated 05.11.2015 was issued to the petitioner. Hence, the petitioner is before this Court with the present prayer.

6. After elaborate arguments on legal issues, the learned counsel for the petitioner submitted that it would be suffice if the goods are provisionally released on certain terms and conditions. The petitioner is also inclined to comply the said condition.

7. The learned Standing Counsel for the respondents submitted that some stringent condition may be imposed to protect the interest of the revenue.

8. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to pay a sum of Rs.50,000/- for the purpose of provisional release of goods and they are prepared to execute a bond to the value of the goods, i.e., to the tune of Rs.17,00,000/- and on such payment and execution of bond, the goods detained may be directed to be released, provisionally.

9. Heard both sides.

10. This Court is of the considered view that there is some force in the submission made by the learned counsel for the petitioner. In view of the submissions made by the learned counsel for the petitioner that the petitioner is willing to execute a bond for the value of the goods determined by the respondents, for the purpose of release of goods provisionally, the petitioner is directed to pay a sum of Rs.50,000/- (Rupees fifty thousand only) and to execute a bond to the value of the goods, i.e., to the tune of Rs.17,00,000/- (Rupees Seventeen lakhs only), within a period of two weeks from the date of receipt of a copy of this order and on such payment and execution of bond, the goods in question shall be provisionally released forthwith. It is made clear that all other adjudication proceedings may go on, in which, the petitioner is directed to participate without fail.

With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

gg

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Commissioner of Customs,
   Air Cargo Complex,
   New Customs House,
   Meenambakka,
   Chennai - 600 027.

2. The Deputy Commissioner of Customs (SIIB),
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   New Customs House,
   Meenambakka,
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3. The Appraiser (SIIB),
Air Cargo Complex,
New Customs House,
Meenambakka,
Chennai - 600 027.

+ 1 cc to Mr.S.Murugappan, Advocate Sr 68128

+ 1 cc to Mr.V.Sundareswaran, Advocate Sr 68595

SV/CO
KR/11/1/16

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