IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.4798 of 2015
and M.P.Nos.1 to 3 of 2015

M/s.Thameema Trading Corporation,
Taj Towers, 22-A, Second Line Beach,
Chennai 600 001.
Rep. By its Managing Director
Dr.T.Saleem Basha
... Petitioner

-Versus-

The Assistant Commissioner of Customs,
Office of the Commissioner of Customs,
Customs House,
No.60 Rajaji Salai,
Chennai 600 001.
...Respondent

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorari calling for the records comprised in the impugned order of the respondent bearing Ref.No.F.No.S.Misc.839/2-13-Gr 3&4 dated Nil/06/2014 and to quash the above said proceedings.

For petitioner : Mr.Satish Parasaran

For respondents : Mr.S.Xavier Felix, SCGSC

ORDER

The petitioner is a sole proprietorship concern and it is engaged in the business of importing and trading of 'Globe' locks, padlocks and certain other products. The petitioner has been engaged in the importing business for the last more than 15 years.

2. According to the petitioner, earlier, in the proceedings initiated by the respondent alleging that the transaction value declared was too low. But, however, the Customs, Excise and Service Tax Appellate Tribunal [CESTAT], Chennai, by its order dated 03.09.2007 was pleased to set aside the order passed by the respondent and to uphold the transaction value disclosed by the petitioner as the true value of the goods.

3. While so, during the normal course of business, the petitioner imported a consignment of padlocks from China and stored the same in a customs bonded warehouse after completion of the 'into bond assessment' from Chennai customs, and, as a matter of fact, it had cleared a part of consignment after the payment of assessed duty on 01.11.2013 and after filing the Ex-Bond Bills. When the petitioner filed three fresh Ex-Bond Bills to clear the remaining stock on 03.12.2013, to its shock and chagrin, the respondent refused to accept the valuation for the remaining part of consignment. Though a representation was made in this regard followed by repeated requests, there was no final decision taken by the respondent on the assessment of three Ex-Bond Bills. Hence, the petitioner was forced give a complaint on 27.06.2014 to the Commissioner of Customs through Government of India's online portal, for which, a response was received on 22.07.2014 upholding the action taken by the respondent and informing the petitioner that the consignment under dispute as well as future consignments shall be assessed only by resorting to provisional assessment on execution of the bond backed by a Bank Guarantee. Challenging the above said order, the petitioner is now before this court with this writ petition.

4. Heard both sides and also perused the records carefully.

5. For the purpose of process of Ex-Bond Bills of Entry, a communication [signed on 19.06.2014] was issued by the respondent which reads thus:-

> "Please be informed that as per the orders of Commissioner, all your pending Bills of Entry and future Imports will be assessed on provisional basis against Provisional Duty Bond equal to Assessable Value backed by Bank Guarantee equal to 30% of Bond Value. The Bank Guarantee will be submitted with Auto Renewal Clause."

It is the said order now under challenge in this writ petition.

6. After notice, the learned standing counsel appearing for the department, produced a communication dated 17.07.2014 which gives the reply to the apprehension of the petitioner that each and every case will be decided independently without insisting on filing of Bank Guarantee. The above said letter is placed on record. It is also submitted by the learned counsel for the respondent that there is no such coercive steps taken as alleged.

7. In the light of the above, the writ petitioner's apprehension for disproportionate levy of security in respect of future consignments need not be gone into. It is always open to the petitioner to seek appropriate remedy in the manner known to law.

With this observation, the writ petition is disposed of. No costs. Consequently, connected MPs are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

kmk

To
1.The Assistant Commissioner of Customs, Office of the Commissioner of Customs, Customs House, No.60 Rajaji Salai, Chennai 600 001.

1 cc to Mr.Satish Parasaran , Advocate Sr.No.43171
1 cc to Mr.S.Xavier Felix, Advocate Sr.No.43226

W.P.No.4798 of 2015

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pmk.3.9.2015