IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.04.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9284 and 9285 of 2015
and M.P.Nos.1 + 1 of 2015 (2 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 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 Wps.

Prayer in W.P.9284/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to carry out the assessment in respect of Bill of Entry No.8117368 dated 28.01.2015 by accepting the value declared by the petitioner herein.

Prayer in W.P.9285/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to carry out the assessment in respect of Bill of Entry No.8511243 dated 06.03.2015 by accepting the value declared by the petitioner herein.

For Petitioner : Mr.S.Murugappan

For Respondents : Mr.S.Xavier Felix
SCGSC

C O M M O N O R D E R

The writ petition has been filed for a direction to the respondents to carry out the assessment in respect of Bill of Entry Nos. No.8117368 and 8511243 dated 28.01.2015 and 06.03.2015 respectively.

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 Bills of Entry dated 28.01.2015 and 06.03.2015 for completion of assessment and clearance of the goods upon payment of import duties; however, the respondents have not carried out the assessment of the subject bills of entry and are keeping it pending. 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.S.Xavier Felix, learned counsel appearing for respondents vehemently refuted the contentions raised by the petitioner and 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. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gpa

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

+2cc's to M/s.S.Xavier Felix, SCGSC, Advocate, S.R.No.18770 & 18771
+2cc's to M/s.S.Murugappan, Advocate, S.R.No.18197

W.P.Nos.9284 and 9285 of 2015
and
Connected Mps

RSK(CO)
CA(10/04/2015)