

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

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THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.10829 of 2016

and

WMP No.9456 and 9457 of 2016

M/s V.K. Industrial Corporation Limited
represented by its Director, Mr.Virendra Mehta,
No.43, Olympic Warehouse, Red Hills Road,
Kadapakkam Ponneri Taluk,
Manali New Town,
Chennai - 600 103 Petitioner

vs

1. The Principal Commissioner of Customs,
Chennai III Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai - 600 001
 2. The Deputy Commissioner of Customs (SIIB),
Custom House, 60, Rajaji Salai,
Chennai - 600 001
 3. The Appraiser of Customs,
Special Investigation and Intelligence Branch,
Custom House,
60, Rajaji Salai,
Chennai - 600 001
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records pertaining to the third respondent impugned seizure memo dated 04.03.2016 issued in F.No.INV 04/2016-SIIB and quash the same.

For petitioner : Mr.Sujay Kantwala
For respondents: Mr.G. Rajagopalan
Addl.Solicitor General for
Mr.Vikram Ramakrishnan

ORDER

The petitioner has filed the writ petition to issue a Writ of Certiorari to call for the records pertaining to the impugned Seizure Memo, issued by the third respondent, dated 04.03.2016 issued in F.No.INV 04/2016-SIIB and quash the same.

2. The petitioner Company had imported Hot Rolled Steel Coil (with Chromium) Grade API 5L Gr B of various sizes, vide Bill of Entry dated 11.01.2016. The declaration was made in the bill of entry in terms of invoice, issued by the foreign supplier, which was in consonance with the purchase order, placed by the petitioner company. The petitioner had also paid all duties leviable on import of the goods and upon such payment, the Proper Officer of Customs had given an out of charge permission, which entitled the petitioner to clear the goods for domestic consumption. Accordingly, the goods were cleared and kept in the private warehouse, situated in the Chennai Port Trust premises.

3. On 25.02.2016 and 26.02.2016, the respondents examined the goods, in question, in the said private warehouse and after examination, it was found that the steel coils contained a label, which was mentioned the grade as "SS 400". The petitioners were informed orally by the officers of the respondents that the goods, in question, were seized on the reasonable belief that the petitioner company had misdeclared the grade as API 5L Gr B in order to evade safeguards duty, which is applicable on import of HR steel coils of grade "SS 400".

4. In addition to the goods imported vide bills of entry dated 11.01.2016, the respondents also orally placed under seizure the goods, imported previously by the petitioner company, vide bills of entry dated 25.11.2015. According to the petitioner, the goods imported previously did not contain any label on the goods to the effect that they were of the grade "SS 400". The third respondent subsequently seized the goods imported vide bills of entry dated 11.01.2016 by the Seizure Memo dated 04.03.2016. Aggrieved over the seizure memo dated 04.03.2016, the petitioner has filed the above writ petition.

5. When the matter was taken up for hearing on 07.04.2016, Mr.Sujay Kantawala, learned counsel appearing for the petitioner, submitted that out of 5558.010 Mts of Coils, now lying with the respondents, the petitioner is willing to give 1111.602 Mts of Coils, as security and the balance of 4446.408 Mts of Coils may be directed to be released by the respondents.

6. Mr.Vikram Ramakrishnan, learned Standing Counsel, appearing for the respondents, on 07.04.2016, submitted that the matter may be adjourned for getting instructions with regard to the submissions made by the learned counsel for the petitioner.

7. According to the learned counsel for the petiitoner, 1111.602 Mts of Coil would satisfy the value of the goods, amounting to Rs.2,20,55,468/-

8. When the matter was taken up for hearing today, Mr.G. Rajagopalan, learned Additional Solicitor General, appearing for the respondents, submitted that the respondents are not having any facility to retain the goods as security and in the event of the authorities, coming to the conclusion, that the petitioner is liable to pay the amount, the respondents would find it very difficult to sell the goods and realise the amount. The learned Additional Solicitor General submitted that as security, the petitioner may be directed to give Bank Guarantee for a sum of Rs.2,20,55,468/- and on giving the Bank Guarantee, the respondents may be directed to release the goods.

9. Mr. Sujay Kantawala, learned counsel appearing for the petitioner, also agreed that the petitioner would give Bank Guarantee for a sum of Rs.2,20,55,468/- for the release of the entire goods, weighing 5558.010 Mts of Coils.

10. The learned Additional Solicitor General further submitted that it may be clarified by this Court that the order passed, now in the present writ petition, shall not stand in the way of the adjudicating authority to adjudicate the matter in accordance with law.

11. Having regard to the submissions made by the learned counsel on either side, since the learned counsel appearing for the petitioner agreed that he would give Bank Guarantee for a sum of Rs.2,20,55,468/-, I direct the petitioner to give Bank Guarantee for a sum of Rs.2,20,55,468/- (Rupees two crores twenty lakhs fifty five thousand four hundred sixty eight only) to the satisfaction of the first respondent and the Bank Guarantee, to be given by the petitioner, shall be in force till the adjudication proceedings is completed.

12. It is made clear that the order passed in the present writ petition shall not stand in the way of the adjudicating authority, deciding the matter in accordance with law. The respondents are directed to release the goods, weighing 5558.010 Mts of Coils, within three days from the date of giving the Bank Guarantee by the petitioner. With these observations, the writ

petition is disposed of. No costs. Consequently, connected Mps are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Principal Commissioner of Customs,
Chennai III Commissionerate,
Custom House, 60, Rajaji Salai,
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2. The Deputy Commissioner of Customs (SIIB),
Custom House, 60, Rajaji Salai,
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3. The Appraiser of Customs,
Special Investigation and Intelligence Branch,
Custom House,
60, Rajaji Salai,
Chennai - 600 001

+1 cc to Mr.Vikram Ramakrishnan Advocate sr.26940

+1 cc to Mr.Hari Radhakrishnan Advocate sr.26875

WP.No.10829/2016

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