IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.12997 of 2016 &
W.M.P.No.11349 of 2016

M/s. Sri Durga Traders
Rep. by its Proprietor
Mr.K.Mahesh
D.No. 2-1-13, Nazeer Thota
Nawabpet
Nellore A.P- 524 002. .. Petitioner

v.

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

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

3 The Additional Commissioner Of Customs (SIIB)
Custom House No.60, Rajaji Salai
Chennai-600 001. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to release the goods viz. 594 Cartons of PVC Rice Light and 300 Cartons of Black Wire Rice Light imported vide Bill of Entry No. 4285101, dated 17.02.2016, which was finally assessed by the Proper Officer under the Customs Act and total duty of Rs. 7,35,791/- was also paid on 18.02.2016

For Petitioner : Mr.A.K.Jayaraj

For Respondent : Mr.K.Mohana Murali
Standing Counsel

ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus directing the respondents to release the goods viz. 594 Cartons of PVC Rice Light and 300 Cartons of

Black Wire Rice Light imported vide Bill of Entry dated 17.02.2016, which was finally assessed by the Proper Officer under the Customs Act and total duty of Rs. 7,35,791/- was also paid on 18.02.2016.

2. According to the petitioner, they had imported 594 Cartons of PVC Rice Light and 300 Cartons of Black Wire Rice Light from China under the Bill of Entry dated 17.02.2016 for clearance of goods. The petitioner had requested the respondents to pass orders for clearance of the said goods submitting that the above goods are of Chinese Origin and are unpopular brands. Thereafter, the goods were assessed by the Proper Officer after enhancing the value from the value of Rs.11,19,568/- to Rs.30,07,831/- and the petitioner had also paid the duty amount of Rs.7,35,791/- on 18.02.2016. After the payment of duty, the petitioner was informed by the respondents that the goods have to be examined by the Investigating Agencies due to an unanimous letter received with regard to declaration of the goods. Thereafter, the SIIB Officers along with other Investigating Agencies Officers wanted to examine the goods and the container was opened and de-stuffed fully and examined more than twice by damaging all the cartons and found nothing more than what was declared by the petitioner with regard to quantity and description. After examination, the petitioner had requested the respondents to release the goods, which was already assessed to duty and duty also been paid on the value appraised by the Proper Officer. Since the petitioner did not receive any reply or the goods have been released to them, the petitioner has filed the above writ petition.

3. The respondents filed their counter wherein they have mentioned that the differential duty payable by the petitioner is Rs.6,73,803/-. Further, the respondents have stated that when the goods were examined along with the officials of SIIB, Customs House, Chennai, it was noticed that while counting the number of lights (bulbs) with references to 68L, all the serial lights are with 73 bulbs as against 68 bulbs declared and in the case of 48L maximum number of serial lights are with 54 bulbs as against 48 declared and some of them are with 56 bulbs. However, the quantity was found to be 2,37,600 and 30,000 respectively as per the declaration in the Bill of Entry.

4. Learned counsel appearing for the petitioner submitted that in view of the counter filed by the respondents the good may be released to the petitioner.

5. In the counter affidavit, the respondents have stated that the petitioner is liable to pay the differential duty of Rs.6,73,803/-.

6. Mr.Mohana Murali, learned Standing Counsel appearing for the respondents, submitted that on payment of differential duty, the goods may be directed to be released to the petitioner and the adjudication may be done in accordance with law.

7. Having regard to the submissions made by the learned counsel on either side, I am of the view that the goods detained by the respondents can be released to the petitioner on payment of differential duty of Rs.6,73,803/-.

8. Accordingly, I direct the second respondent to release the goods imported under the Bill of Entry dated 17.02.2015 to the petitioner on payment of the differential duty of Rs.6,73,803/- forthwith. The learned counsel for the petitioner submitted that liberty may be given to the petitioner to challenge the levy of differential duty and also the release of the goods before the second respondent in accordance with law. In view of the submissions made by the learned counsel for the petitioner, I give liberty to the petitioner to challenge the differential duty levied by the respondents and also give liberty to the petitioner to challenge the detention of goods by the respondents in accordance with law.

With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

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

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

3 The Additional Commissioner Of Customs (SIIB),
Custom House No.60, Rajaji Salai,
Chennai-600 001.

+1cc to Mr.A.K.Jayaraj, Advocate sr.26525
+1cc to Mr.K.Mohanamurali, Advocate sr.26552

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skv(CO)
srg(28/04/2016)