IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.37739 of 2015and

W.M.P.No.8735 of 2015

1 M/s. A.T. International
172/174, Abdul Rehman Street
3rd Floor, Room No.10
Mumbai-400 003
rep.by its Proprietor
Shri. Yunus H.Dohadwala ... Petitioner

Vs.

1 The Commissioner of Customs
Chennai II Commissionerate
Custom House
60, Rajaji Salai, Chennai-1.

2 The Deputy Commissioner of Customs (SIIB)
Custom House
60, Rajaji Salai, Chennai-1.

3 The Deputy Commissioner of Customs
Group-5, Custom House
60, Rajaji Salai, Chennai-1. ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents to cause release of the goods imported vide Bill of Entry Nos. 2001098 dated 23.07.2015 and 2361119 dated 25.08.2015.

For Petitioner : Mr.B.Satish Sundar

For Respondents :Mr.T.Pramod Kumar Chopda, SSC

O R D E R

Heard Mr.B.Satish Sundar, learned counsel for the petitioner and Mr.T.Pramod Kumar Chopda, learned Senior Standing Counsel for the respondents.

2. The petitioner in this Writ Petition seeks for a direction to the respondents to release the imported goods, which were imported by Bill of Entry Nos. 2001098 dated 23.07.2015 and 2361119 dated 25.08.2015.

3. This writ petition has been heard by this court on several dates. The prayer for provisional release of the goods in question, which are measuring tapes, was resisted by the Department on the ground that an order of provisional release was passed by the respondents on 16.12.2015, but the petitioner did not utilize the opportunity and complied with the conditions therein and therefore, it is submitted that the prayer sought in this writ petition is not maintainable.

4. The reason for which the impugned goods have been detained is on account of the country of origin of the goods. The goods, which were detained, are steel measuring tapes and according to the petitioner, the goods are of Vietnamese origin and value declared by them and admitted duty are proper. On the other hand, the Department would contend that the goods are of Chinese origin and therefore, the petitioner is liable to pay anti-dumping duty and the amount payable as duty will be more than Rs.56 Lakhs.

5. After elaborately hearing the parties, this Court suggested that if the interest of revenue is safeguarded, the prayer for provisional release can be considered by them. The gap between admitted duty and penal duty is wide. The petitioner is not in a position to make any reasonable offer to safeguard the interest of revenue. Therefore, the only option available is to direct the respondents to finally adjudicate the matter. When this suggestion was put to the petitioner, the petitioner has agreed to cooperate for adjudication process, provided strict time lines are followed.

6. In the light of the agreement arrived at during the course of hearing, the following directions are issued:

i. The respondents are directed to issue show cause notice to the petitioner on or before ***20.01.2017.**

ii. The petitioner should be granted fifteen days time to submit reply. On receipt of the reply, the respondents are directed to fix personal hearing, which shall be within ten days from the date of receipt of the reply.

iii. The petitioner is directed to appear on the date fixed for personal hearing without seeking for any adjournment.

iv. After conclusion of the personal hearing, the respondents are directed to pass final orders, within a period of four weeks from the date on which personal hearing was concluded.

v. It is made clear that the time limit fixed is not only for the Department to complete the adjudication, but for the petitioner as well and if the petitioner fails to cooperate in the adjudication process, then the petitioner cannot complain that there is a delay or failure to adhere to the time lines fixed by this Court.

7. The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

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-s/d-
Assistant Registrar(CS-II)
Dt.10.11.2016

***Corrected as per order dt.3.1.17**
in WP.No.37739/2015
Sd/-
Assistant Registrar (CO)
Dt.5.1.2017

True Copy

Assistant Registrar

ajr

To

***To be substituted the order already despatched on 11.11.16**

1 The Commissioner of Customs
Chennai II Commissionerate
Custom House
60, Rajaji Salai, Chennai-1.

2 The Deputy Commissioner of Customs (SIIB)
Custom House
60, Rajaji Salai, Chennai-1.

3 The Deputy Commissioner of Customs
Group-5, Custom House
60, Rajaji Salai, Chennai-1.

+1 cc to M/s.T.Pramod Kumar Chopda Advocate sr ***243**

+1 cc to Mr.B.Sathish Sundar, Advocate,sr.369.

W.P.No.37739 of 2015

pvs(co)

aa10/11/2016

krd 5/1