

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2016

CORAM

THE HON'BLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.25361 of 2016

&

W.M.P.No.21663 of 2016

M/s.Rainbow Traders

Rep by its Proprietrix Mrs.Kamalabai
Chennai-600 001.

... Petitioner

Vs

1. The Commissioner of Customs (Group 7H)
Custom House, No.60 Rajaji Salai
Chennai-600 001.
2. The Joint/ Additional Commissioner of Customs (Group 7H)
Custom House No.60 Rajaji Salai
Chennai-600 001.
3. The Deputy Commissioner of Customs (SIIB)
Custom House No.60 Rajaji Salai
Chennai-600 001.
4. The Superintendent of Customs
(SIIB) Custom House No.60 Rajaji Salai
Chennai-600 001.

... Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the Respondents herein to release the goods viz. 175 Cartons of Hot Fix Paper for Garments, 50 Cartons of Toy Ball, 91 Cartons of Toy Baby Chair, 50 Cartons of Toy Twist Car of Different item numbers, 70 Cartons of Toy Modeling Clay of different item numbers, 26 Cartons of Garments Accessories iron ball, 76 Cartons of Garments Accessories Flower Pendals and 460 Cartons of Garments Accessories Glass Beads Assorted imported vide Bill of Entry No.5311754 dated 18.05.2016 on the value declared by the petitioner at US\$ 12 417.17 totally.

For petitioner : Mr.A.K.Jayaraj

For Respondents : Mrs.R.Hemalatha
Sr.Panel Counsel

O R D E R

Heard Mr.A.K.Jayaraj, learned counsel appearing for the petitioner and Mrs.R.Hemalatha, learned Senior Panel Counsel accepting notice for the respondents and with the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with this Writ Petition for issuance of writ of mandamus to direct the respondents herein to release the goods viz. 175 Cartons of Hot Fix Paper for Garments, 50 Cartons of Toy Ball, 91 Cartons of Toy Baby Chair, 50 Cartons of Toy Twist Car of Different item numbers, 70 Cartons of Toy Modeling Clay of different item numbers, 26 Cartons of Garments Accessories iron ball, 76 Cartons of Garments Accessories Flower Pendals and 460 Cartons of Garments Accessories Glass Beads Assorted imported vide Bill of Entry No.5311754 dated 18.05.2016 on the value declared by the petitioner at USB 12 417.17 totally.

3.The learned Senior Panel Counsel appearing for the respondents has produced the written instructions given to the Deputy/ Assistant Commissioner of Customs, Legal Section (Sea), dated 27.07.2016. The operative portion of the said communication reads as follows:

"5.The above referred bill of Entry was examined at Sattva II CFS in the presence of Shri Naendra Kumar Vora, the authorised person of the importer and Shri N.K.Murugan the Sr.Executive Manager (Operations), Sattva II CFS on 20.07.016. The report dated 20.07.2016 is put up at RHS for your kind reference. In this report it is stated the pkgs are tailed with import documents but weight of the container has excess in kgs i.e.603 kgs excess than the declared in the import documents and the importer claim 4% SAD benefit under Sl.No.2 of the Customs Notification No.21/2012, but items covered under sl.no.1,9,10,& 11 were not fulfilling the conditions of the notification. Based on the above, a letter to The D.C.(Gr.7H) was sent on 26.07.2016, informing them that the SIBB is not investigating the case and requested to process the bill of entry as per law.

6.In view of the above, it is evident that there is no delay on part of the Department and the delay is because of the non appearance of IEC holder.

7.As the SIIB is not investigating the case and recommended for release of the goods in accordance with law, the writ petition may be closed as infructuous."

4.In the light of the stand taken by the Department that they have recommended for release of consignments and SIIB is not investigating the case, there will be a direction to the first respondent to release the consignments, after completion of the formalities, within a period of two weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Commissioner of Customs (Group 7H)
Custom House, No.60 Rajaji Salai
Chennai-600 001.
2. The Joint/ Additional Commissioner of Customs (Group 7H)
Custom House No.60 Rajaji Salai
Chennai-600 001.
3. The Deputy Commissioner of Customs (SIIB)
Custom House No.60 Rajaji Salai
Chennai-600 001.
4. The Superintendent of Customs
(SIIB) Custom House No.60 Rajaji Salai
Chennai-600 001.

+1cc to Mr.A.K.Jayaraj, Advocate, S.R.No.44072
+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.43642

W.P.No.25361 of 2016

MP 1(CO)
CA(05/08/2016)