

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.34310 of 2016
and WMP.No.29577 of 2016

M/s.Retex,
Represented by its Executive Director,
Mr.D.Krishna Kumar,
No.261, 1st Floor, Kumar Nagar,
Avinashi Road,
Tirupur-641 603. ..Petitioner

-Vs-

1. The Joint Commissioner of Customs (SIIB),
Chennai-VII Commissionerate,
New Custom House,
Meenambakkam,
Chennai-600 027.
2. The Deputy Commissioner of Customs (SIIB),
Air Cargo Complex,
New Custom House,
Meenambakkam,
Chennai-600 027.
3. The Appraiser (SIIB),
Air Cargo Complex,
New Custom House,
Meenambakkam,
Chennai-600 027. .. Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus or any other appropriate writ or direction in the nature of a writ directing the first respondent herein to decide the show cause notice dated 07.01.2016 issued from File No.SIIB/12/2015-AIR within a specific time that may be fixed by this Hon'ble Court.

For Petitioner : Mr.S.Murugappan

For Respondents : Mr.S.R.Sundar
Standing Counsel

ORDER

Heard Mr.S.Murugappan, learned Counsel for the petitioner and Mr.S.R.Sundar, learned Standing Counsel appearing on behalf of the respondents. With the consent of either side, the writ petition is taken up for final disposal.

2.The petitioner seeks for issuance of Writ of Mandamus to direct the respondents to decide the show cause notice dated 07.01.2016, and also to grant provisional release of the goods subject to the conditions that may be imposed by this Court.

3.The petitioner filed bill of entry No.2231792 dated 13.08.2015 for clearance of Knitting Machine Needles from a supplier at Japan. The declared value was Rs.5,77,465/- and the declared duty was Rs.1,34,514/-. The Special Intelligence and Investigation Branch (SIIB) of the respondent Commissionerate took up the matter for investigation which ultimately resulted in the issuance of show cause notice under section 124 of the Customs Act, 1962, in and by which, there was a proposal to re-determine the value of the imported goods at Rs.10,41,410/- and the duty leviable at Rs.2,43,851/- as against the declared duty of Rs.1,34,514/- resulting in differential duty of Rs.1,09,337/-. There was also a proposal to levy penalty under Section 112(a)/114(A) and 114(AA) of the Customs Act, 1962, and for rendering the goods liable for confiscation under Section 111 of the Customs Act, 1962. The petitioner has submitted their reply dated 10.02.2016 and sent two reminder letters dated 21.04.2016 and 12.05.2016 requesting for adjudicating the show cause notice and stating that they have already appeared for personal hearing on 17.03.2016. However, once again the Deputy Commissioner of Customs (Group 5-ACC) issued another notice dated 04.06.2016 fixing the personal hearing 17.06.2016. This was followed by another notice dated 12.08.2016 adjourning the hearing to 24.08.2016. The petitioner made a representation saying that already he has been heard in the matter and requested to pass orders. In spite of such request having been made on 24.08.2016, since nothing transpired, the petitioner before this Court.

3.The learned Standing Counsel appearing for the respondents has produced the written instructions given by the Deputy Commissioner of Customs, Group-5 AIR Cargo, from which it is seen that the Department is inclined to provisionally release the goods under Section 110A of the Customs Act, 1962 and also pass final orders on the show cause notice.

4.Considering the facts and circumstances of the case and

the proposed differential duty, there will be a direction to the petitioner to pay 50% of the differential duty and furnish a bond for the remaining 50%. On such payment and furnishing the bond, the goods shall be forthwith released and thereafter, the Deputy Commissioner of Customs, Group 5 - AIR Cargo/adjudicating authority shall pass orders after considering the petitioner's reply to the show cause notice without insisting upon the petitioner to appear for further personal hearing.

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

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kp/cse

To

1. The Joint Commissioner of Customs(IIB),
Chennai-VII Commissionerate,
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Meenakbakkam, Chennai-600 027.
2. The Deputy Commissioner of Customs (SIIB),
Air Cargo Complex,
New Custom House,
Meenakbakkam, Chennai-600 027.
3. The Appraiser (SIIB),
Air Cargo Complex,
New Custom House,
Meenakbakkam, Chennai-600 027.

1 cc to Mr.Murugappan, Advocate, sr.56859
1 cc to Mr.Sudnar, Advocate, sr.56936

W.P.No.34310 of 2016

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