IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.3954 of 2016

M/s.Jai Hind Wire Rod Mills Ltd.,
rep by its Managing Director
G.E.Govindaraj,
12/I-A, Nattamangalam Road,
Amani Kondalampatty, Salem - 636 010. ... Petitioner

Vs.

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

2.Assistant Commissioner of Customs (DIU),
Custom House, No.60 Rajaji Salai,
Chennai - 600 001.

3.The Assistant Director,
Directorate of Revenue Intelligence,
No.27, Adarsh Towers, G.N.Chetty Road,
Near Hotel Accord, T.Nagar,
Chennai - 600 017. ... Respondents

(R3 impleaded vide order dated 26.04.2016 made in W.M.P.No.9118 of 2016)

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned letter dated 18.01.2016 of the 2nd respondent issued in F.No.S.Misc.35/2015 - DIU and to quash the same and further direct the respondents to release the goods covered by bill of entry No.2162096 dated 06.08.2015 within a reasonable time frame.

For Petitioner : Mr.Hari Radhakrishnan
For Respondents : Mr.A.P.Srinivas - R1 to R3

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned letter dated 18.01.2016 of the 2nd respondent and to quash the same and to further direct the respondents to release the goods covered by bill of entry dated 06.08.2015 within a reasonable time.

2.It is the case of the petitioner that it is a regular importer of heavy melting steel scrap and in the course of their business, the petitioner had imported heavy melting steel scrap vide bill of entry dated 06.08.2015 and the goods were initially detained on the ground that hazardous items were being smuggled in the guise of heavy melting scrap. The goods were de-stuffed and subjected to 100% examination and found that the goods were as per the declaration made in the bill of entry. Despite the fact that the goods have been detained since 12.08.2015, the respondents have not released the goods inspite of the petitioner's repeated requests.

3.According to the learned counsel for the petitioner under Section 110 (2) of the Customs Act, when no notice in respect of the seizure is given under Clause (a) of Section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized.

4.In the counter filed by the respondents, it has been stated that during the course of business, it was found that as against the declared net weight of 246.56 metric tons, the actual weight of the imported cargo was found to be only 60.835 metric tons and also apart from the declared cargo viz., heavy melting scrap, there were 38 nos of Global brand R-134a refrigerant empty cylinders, out of which, 10 cylinders were damaged. Further, in the counter, the respondents have stated that the respondents are investigating into the role of the Pre-shipment Inspection Agency M/s.Tubby Impex and the role of the steamer agent in the instant case. Further, the investigation was directed to be done in an expeditious manner.

5.Admittedly, the 1st respondent has not issued any notice under Section 124(a) of the Customs Act, hence, the goods have to be released under Section 110(2) of the Customs Act. Since the provisions of the Section 110(2) is clear that in the absence of any notice under Section 124(a) within six months from the date of seizure, the petitioner is entitled to get release of the goods.

6.In view of the provisions of Section 110(2) of the Customs Act, I am of the view that the 1st respondent should be directed to release the goods. In view of the same, the impugned order dated 18.01.2016 of the 2nd respondent is liable to be set aside. Accordingly, the same is set aside. The 1st respondent is directed to release the goods covered by the bill of entry dated 06.08.2015 within a period of two weeks from the date of receipt of a copy of this order.

7.With these observations, the Writ Petition is disposed of. No costs.

va

s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

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

2.The Assistant Commissioner of Customs (DIU),
Custom House, No.60 Rajaji Salai,
Chennai - 600 001.

3.The Assistant Director,
Directorate of Revenue Intelligence,
No.27, Adarsh Towers, G.N.Chetty Road,
Near Hotel Accord, T.Nagar,
Chennai - 600 017.

+ 1 cc to Mr.A.P.Srinivas, Advocate, SR 26147

+ 1 cc to Mr.Hari Radhakrishnan,Advocate, SR 25942

cnr(co)
prk29/4

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