



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2016

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANAWrit Petition (MD) Nos.3736 to 3741 of 2016

M/s.Vishnu Timber,
34, Shandy Road, Mettupatty,
Dindigu 624 002,
Rep by its Authorized Signatory
H.Ashok ... Petitioner in W.P(MD)No.3736 of 2016

M/s.Shiv Prasad Enterprises,
92-98, Reay Road (West)
Mumbai 400 023,
Rep by its partner,
Nilesh K.Patel ... Petitioner in W.P(MD)no.3737 of 2016

M/s.Sree Bhagvan Enterprises
34, Shandy Road, Mettupatty
Dindigul 624 002,
Rep by its Authorized Signatory
H.Ashok ... Petitioner in W.P(MD)No.3738 of 2016

M/s.Sri Saraswathi Timber & Plywoods,
P.O.Box No.35,#107, GST Road,
Chrompet, Chennai 600 044,
Rep by its Partner Ravilal D Patel
... Petitioner in W.P(MD)No.3739 of 2016

M/s.Sri Ram & Company,
193/1-B, Palani Road,
Meenatchinaickenpatty Post,
Dindigul 624 002,
Rep by its Authorized Signatory,
A.Muthu Karuppaiah ... Petitioner in W.P(MD)No.3740 of 2016

M/s.Sri Ganesh Saw Mill,
S.No.74/4A2, 4B1, Meenatchinaickenpatty Post,
Kurumpapatty Village, Palani Road,
Dindigul 624 002,
Rep by its Authorized Signatory,
A.Muthu Karuppaiah ... Petitioner in W.P(MD)No.3741 of 2016



Vs.

1.The Chief Commissioner of Customs,
Williams Road, Tiruchirapalli 620 001.

2.The Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin 628 004.

3.The Additional Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin 628 004.

4.The Assistant Commissioner of Customs
(Assessing Group),
Custom House,
New Harbour Estate,
Tuticorin 628 004.

... Respondents in all W.Ps.

Prayer in WP(MD)Nos.3736 to 3741 of 2016:- Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents herein to consider the representations of the petitioners dated 06.05.2013, 21.03.2013, 17.07.2013 respectively and, on 05.10.2013 seeking to issue a show cause notice u/s.124 of the Customs Act and to pass a speaking order in terms of section 17(5) of the Customs Act read with Sec.122 of the Customs Act after affording the petitioner a reasonable opportunity of being heard in the matter.

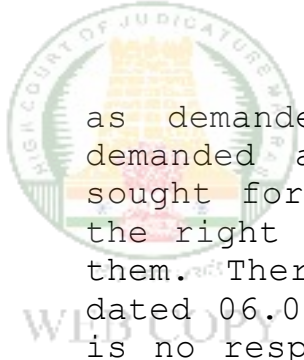
For Petitioner	: Mr.N.Viswanathan
For Respondents	: Mr.R.Aravindan
(In all W.Ps)	

ORDER

The assessees demanding for show cause notices under Section 124 of the Customs Act, 1962 and to pass a speaking order in terms of Section 17(5) of the Customs Act read with Section 122 of the Customs Act, 1962 after affording a reasonable opportunity of being heard, have come up with the above writ petitions.

2.Heard the learned counsel appearing for the petitioners. Mr.R.Aravindan, learned counsel takes notice on behalf of the respondents.

3.According to the petitioners, they are in the business of importing and trading in timber wooden logs of different grades and varieties through the port of Tuticorin. The fourth respondent herein had refused to accept the true and correct transaction value declared by them in respect of the bill of entries and insisted them to accept the enhancement of the value as proposed by the respondent and directed them to pay the duty thereon. It is further submitted that in order to avoid enormous demurrage/detention charges, the petitioners have paid the amount



as demanded by them under protest. Having paid the duty as demanded and having taken delivery of goods, the petitioners sought for speaking order from the fourth respondent to exercise the right of appeal in the event of assessment order goes against them. Therefore, the petitioners have submitted representations dated 06.05.2013 and 05.10.2013 before the respondents. As there is no response, the petitioners have come up with the above writ petitions.

4. Considering the facts and circumstances and without going into the merits of the case, the fourth respondent is directed to consider the representations of the petitioners dated 05.10.2013 and pass appropriate orders on merits and in accordance with law, within a period four weeks from the date of receipt of a copy of this order. The writ petitions are accordingly disposed of. No costs.

Sd/-

Assistant Registrar (Writ)

/True copy/

Sub Assistant Registrar

To

1. The Chief Commissioner of Customs,
Williams Road, Tiruchirapalli 620 001.
2. The Commissioner of Customs,
Custom House, New Harbour Estate, Tuticorin 628 004.
3. The Additional Commissioner of Customs,
Custom House, New Harbour Estate, Tuticorin 628 004.
4. The Assistant Commissioner of Customs
(Assessing Group), Custom House, New Harbour Estate,
Tuticorin 628 004.

+six cc's to Mr.N.Viswanathan, Advocate in SR.Nos.10315 to 10320
+one cc to Mr.R.Aravindan, Advocate in SR.No.10249

CSL/NGM-SS/SAR-I/16.03.2016 /3p/12c

Writ Petition (MD) Nos.3736 to 3741 of 2016
23.02.2016