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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.04.2016
CORAM :
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition (MD) Nos.8200 and 8201 of 2016

M/s.Shree Shankar Vijay Timber Exports Pvt. Ltd.,
92-98, Reay Road (West),
Mumbai 400 023,
Rep by its Director,
Nilesh K.Patel ... Petitioner in W.P(MD)No.8200 of 2016

M/s.Shiv Prasad Eco Touchwood Pvt., Ltd.,
92-98, Reay Road (West),
Mumbai 400 023,
Rep by its Director,
Nilesh K.Patel ... Petitioner in W.P(MD)No.8201 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:- 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 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 reasonable opportunity of being heard to the petitioners in the matter.

For Petitioners : Mr.N.Viswanathan
For Respondents : Mr.R.Aravindan
(In both W.Ps)

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COMMON 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 fourth 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 a speaking order from the fourth respondent to exercise the right of appeal in the event of assessment order going against them. Therefore, the petitioners have submitted representations dated 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(RTI)

/True copy/

Sub Assistant Registrar

sms

To

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

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Custom House,
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Custom House,
New Harbour Estate, Tuticorin 628 004.

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

+one cc to M/s.R.Aravindan, Advocate in SR.No.24162
+two cc's to M/s.N.Viswanathan, Advocate in SR.No.23709

CSL/SK/SAR-III/01.06.2016 : 3P/8C

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