

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.12.2017

CORAM

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

W.P.No.31762 of 2017

M/s.Novel Impex

Shop No.55, Amoluck Complex

II Floor, No.3, Periya Naicken Street

Sowcarpet, Chennai 600 003.

By its Proprietor Mr.Narendra Kumar Vora.

...Petitioner

Vs.

The Deputy Commissioner of Customs (Gr.3)

Rajaji Salai, Customs House

Chennai 600 001.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent herein to provisionally release the goods, covered under Bill of Entry Nos.3510385 and 3510423 both dated 06.10.2017 under Sec.110A of the Customs Act, read with Customs (Provisional Duty Assessment Regulations) 1963, pending adjudication and in terms of the various judicial pronouncement rendered by various High Courts including the Hon'ble Apex Court in the case of Navshakti Industries reported in 2011 (269) E.L.T. A146 (S.C.).

For Petitioner : Mr.N.Viswanathan

For Respondent : Mr.Rajkumar Jhabakh
Junior Panel Counsel

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O R D E R

Heard Mr.N.Viswanathan, learned counsel for the petitioner and Mr.Rajkumar Jhabakh, learned Junior Panel Counsel for the respondent.

2.Though the writ petition was adjourned on two earlier occasions to enable the learned Junior Panel Counsel to obtain instructions and inspite of he having intimated the Department, till date, the Department has not given any written instructions to the learned Junior Panel Counsel. Therefore, this Court does

not proposed to keep the writ petition pending any longer since the relief sought for by the petitioner is for provisional release of the goods imported by the petitioner vide bills of entry dated 06.10.2017 by exercising the powers of the under Section 110A of the Customs Act read with Customs (Provisionally Duty Assessment Regulations) 1963.

3.Though under normal circumstances, this Court will pass conditional orders for grant of provisional release by following various reasons, one such decision being case of Navshakti Industries Pvt. Ltd. vs. Commissioner of Customs, ICD, TKD, New Delhi reported in 2011 (269) E.L.T. A146 (S.C.), however, in this case, I do not propose to do so because the respondent Department has not placed on record as to what is the allegation against the petitioner. From the copies of the bills of entry filed, I find that the petitioner has imported metal balls, cotton buds, etc. and it is not known as to what is the exact reasons for the cargo being detained since first week of October 2017. Thus, considering the above facts, there will be a direction to the respondent to consider the petitioner's application for provisional release and pass appropriate orders within a period of ten days from the receipt of the copy of this order. While issuing appropriate orders, the respondent should also consider the request made by the petitioner for waiver of demurrages and detention charges as the consignment was detained at the instance of the department.

4.With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dna/cse

To

The Deputy Commissioner of Customs (Gr.3)
Rajaji Salai, Customs House
Chennai 600 001.

+2ccs to Mr.N.Viswanathan, Advocate, S.R.No.91758
+1cc to Mr.Rajkumar Jhabakh, Advocate, S.R.No.91864

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SK(CO)
CS/04/01/18