

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.07.2017
Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.25240, 25241 and 25242 of 2004
and
W.P.M.P.Nos.3070 to 30707 of 2004

Premier Marine Products,
Rep. by its Authorized Signatory,
3/284, Muttukadu Road,
Neelankarai, Chennai - 41. ...Petitioner in W.P.No.25240 of 2004

Liberty Frozen Foods Private Limited,
Rep. by its Authorized Signatory,
3/284, Muttukadu Road,
Neelankarai, Chennai - 41. ...Petitioner in W.P.No.25241 of 2004

Universal Cold Storage Limited,
Rep. by its Authorized Signatory,
3/284, Muttukadu Road,
Neelankarai, Chennai - 41. ...Petitioner in W.P.No.25242 of 2004

Vs.

- 1.The Commissioner of Customs,
Customs House,
Rajaji Salai, Chennai-1
- 2.The Assistant Commissioner of Customs,
Customs House,
Rajaji Salai, Chennai-1 ...Respondents in all WPs

Prayer in W.P.No. 25240 of 2004: Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus forbearing the respondents and their subordinates from levying and collecting Cess under the Agricultural Produce Cess Act, 1940 on the export of Prawns / Shrimps by the petitioner in the light of the order passed by the Commissioner of Customs and Central Excise (Appeals - I), Tiruchirapalli in Order-in-Appeal No.56 of 2004 - TTN (CUS) (ADK) dated 20.07.2004.

Prayer in W.P.No. 25241 of 2004: Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Declaration declaring that the action of the respondents in levying and collecting the Cess under the Agricultural Produce Cess Act, 1940 on the export of Prawns / Shrimps by the petitioner as illegal and without authority and consequently, to

restrain the respondents from collecting Cess under the Agricultural Produce Cess Act, 1940 on the export of Prawns / Shrimps by the petitioner in the light of the order passed by the Commissioner of Customs and Central Excise (Appeals - I), Tiruchirapalli in Order-in-Appeal No.55 of 2004 - TTN (CUS) (ADK) dated 20.07.2004.

Prayer in W.P.No. 25242 of 2004: Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus forbearing the respondents and their subordinates from levying and collecting Cess under the Agricultural Produce Cess Act, 1940 on the export of Prawns / Shrimps by the petitioner in the light of the order passed by the Commissioner of Customs and Central Excise (Appeals - I), Tiruchirapalli in Order-in-Appeal No.58 of 2004 - TTN (CUS) (ADK) dated 20.07.2004.

For Petitioners : Mr.R.Asokan
in all WPs
For Respondents : Mr.S.Rajasekaran
in all WPs Senior Standing Counsel

COMMON ORDER

Heard Mr. R. Asokan, the learned counsel appearing for the petitioners and Mr. S. Rajasekaran, learned Senior Standing Counsel for the respondents.

2. These Writ Petitions have been filed for the issuance of writ of mandamus and declaration to forbear the respondents from levying and collecting cess under the Agricultural Produce Cess Act, 1940 on the export of prawns/shrimps by the petitioners, in the light of the order passed by the Commissioner of Customs & Central Excise (Appeals - I), Tiruchirapalli, dated 20.07.2004.

3. An identical issue was considered by the Hon'ble Division Bench, in a batch of cases in C.M.A.Nos. 212 to 223 of 2007 etc., (batch) in the case of (The Commissioner of Customs, Tuticorin Vs. M/s. Edayam Frozen Foods and another) dated 04.07.2008, wherein, issue has been settled in favour of the assessee.

4. Thus, in the light of the above referred settled legal position, the present Writ Petitions are also allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sd

To

1.The Commissioner of Customs,
Customs House,
Rajaji Salai, Chennai.

2.The Assistant Commissioner of Customs,
Customs House,
Rajaji Salai, Chennai.

+3 ccs to Mr.S.Rajasekar Advocate sr 47082

Writ Petition Nos.25240, 25241
and 25242 of 2004

gjII(co)
aa04/09

सत्यमेव जयते

WEB COPY