IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.3492 of 2018
&
W.M.P.Nos.4268 to 4270 of 2018

M/s.Nagavalli Traders
Represented by its Proprietor
Shri S.P.Bose
73, Kollar Street
Virudhunagar- 626 001 ... Petitioner

Vs.

The Deputy Commissioner of Customs
Group-1, Chennai-II
Office of the Commissioner of Customs Chennai II
Customs Home
60,Rajaji Salai
Chennai- 600 001 ...Respondent

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertains to the assessment made in Bill of Entry No.4492379 dated 20.12.2017 and quash the same and further direct the respondent to re-assess the Bill of Entry No.4492379 dated 20.12.2017 after extending the benefit of SI.No.20 of notification No.50/2017 customs dated 30.06.2017 as it stood when the entry inwards of the Vessel given on 21.12.2017 prior to the e-publication of Notification No.93/2017 customs dated 21.12.2017 within a time bound manner.

For Petitioner : Mr.J.Ramakrishnan

For Respondent : Ms.R.Hemalatha
Senior Standing Counsel

O R D E R

Heard Mr.J.Ramakrishnan, learned counsel for the petitioner and Ms.R.Hemalatha, learned senior standing counsel appearing for the respondent.

2.The petitioner seeks for issuance of a writ of mandamus to call for the assessments of the Bill of Entry No.4492379 dated 20.12.2017, as assessed by the respondent and seeks for a direction upon the respondent to re-assess the Bill of Entry No.4492379 dated 20.12.2017 after extending the benefit of SI.No.20 of notification No.50/2017 customs dated 30.06.2017, as it stood when the entry inwards of the Vessel given on 21.12.2017, prior to the e-publication of Notification No.93/2017 customs, dated 21.12.2017.

3.Learned counsel for the petitioner vehemently contended that the timing of the notification, which has been issued, namely Notification No.93/2017, is very relevant in the instant case and the respondents should reassess the Bill of Entry.

4.On the other hand, the Revenue resisted the case of the petitioner by referring to Section 46 of the Customs Act, 1962 and submitted that the rate of duty and tariff valuation shall be the date on which the goods entered for home consumption under Section 46 of the Customs Act, 1962 and the date being the date on which the Bill of Entry in respect of such goods is presented under Section 68 of the Act.

5. In my considered opinion, when the petitioner has an appellate remedy, the Bill of Entry cannot be quashed in a writ petition as the matter requires to be adjudicated before the Commissioner (Appeals), where it will be open to the importer to raise the issues raised in this writ petition.

6. Learned counsel appearing for the Revenue submitted that already a show-cause notice has been issued to the petitioner. Therefore, the issues raised by the petitioner in this writ petition are preserved and the petitioner is granted liberty to adjudicate the same before the respondent in pending show-cause notice.

The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

11.06.2018

To

The Deputy Commissioner of Customs
Group-1, Chennai-II
Office of the Commissioner of Customs Chennai II
Customs Home
60,Rajaji Salai
Chennai- 600 001

T.S.SIVAGNANAM.J.,

gpa

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