

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.19784 of 2010

and

M.P.No.1 of 2010

M/s.Omega Logistic Pvt.Ltd.,
rep.by its Chief Executive Officer, Mr.R.Vinoth Babu,
No.24, Landons Road, Ground Floor,
Kilpauk, Chennai-600 010. ... Petitioner

Vs

- 1.The Commissioner of Customs (Seaport-Import),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
- 2.The Additional Commissioner of Customs, Gr.5A,
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
- 3.The Director General of Foreign Trade and Ex-Officio,
Additional Secretary to Government of India,
Ministry of Commerce and Industry,
Department of Commerce, New Delhi. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the first and second respondents herein to release the goods, viz., 119 units of old and used Digital Multifunction Print and Copying Machines imported vide Bill of Entry No.602914 dated 20.08.2010, under Free as Second Hand Capital Goods in terms of Para 2.17 read with Definitions under 9.12 of Foreign Trade Policy 2009-2014 without imposing any restriction in the absence of specific restriction in Para 2.17 of Foreign Trade Policy and in Para 2.33 of Hand Book of Procedure 2009-2014 and any Notification by the third respondent.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Mr.A.P.Srinivas for R1 and R2
Mr.J.Madhanagopal Rao for R3

O R D E R

When this writ petition was taken up, the learned counsel for the petitioner has submitted that the matter in this writ petition is squarely covered by a Division Bench judgment of this Court in Commissioner of Customs, Tuticorin v. City Office Equipment, reported in 2014 (302) E.L.T. 212 (Mad.), wherein the Division Bench dismissed the revenue's appeals challenging the order passed by a learned single Judge allowing the writ petitions issuing directions to the revenue to release the imported goods, ie., Second-hand Digital Multifunction Print and Copier Machines, on payment of customs duties by treating the imported goods as freely importable under Clause 2.33 of the Handbook of Procedures (Vol.I). He also referred to another Division Bench judgment of this Court in Commissioner of Customs (Seaport-Imports), Chennai v. Anand Impex reported in 2015 (325) E.L.T. 103 (Mad.), which has been rendered following the above judgment. The learned counsel for the petitioner also submitted that the goods of the petitioner had already been released by the respondents.

2.I have also heard Mr.A.P.Srinivas, learned standing counsel for the respondents 1 and 2 and Mr.J.Madhanagopal Rao, learned counsel for the third respondent, who affirmed the submission of the learned counsel for the petitioner.

3.Since the issue involved in this writ petition is squarely covered by the Division Bench judgment of this Court in Commissioner of Customs, Tuticorin v. City Office Equipment, reported in 2014 (302) E.L.T. 212 (Mad.), the first and second respondents have already released the goods in question and hence no further order is required to be passed in this writ petition.

4.Accordingly, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

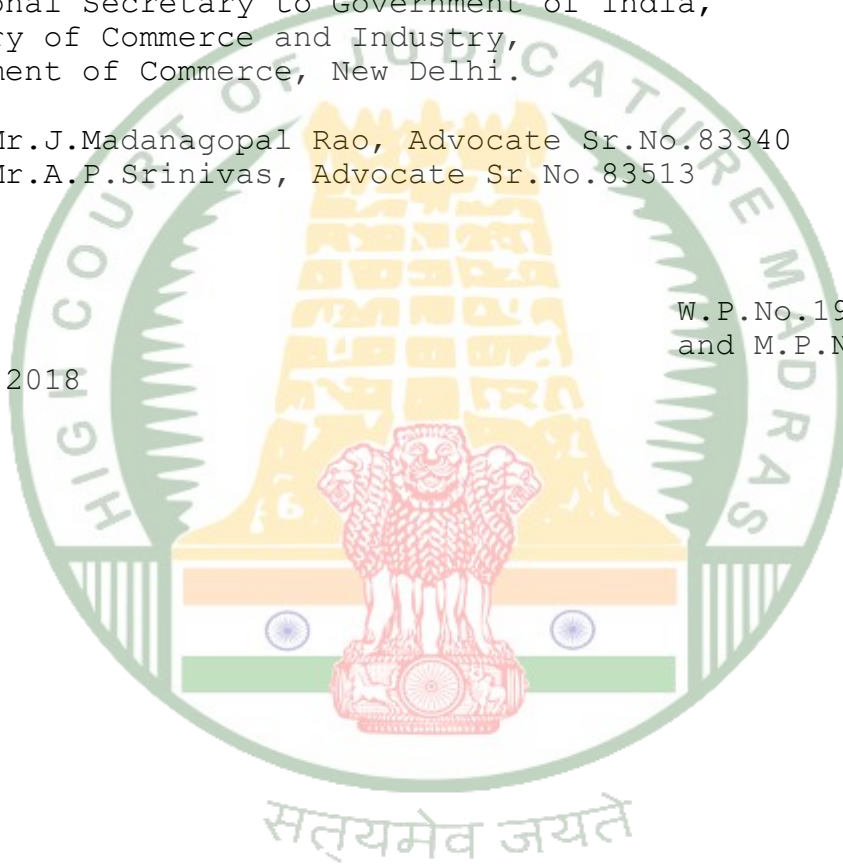
KM

To

- 1.The Commissioner of Customs (Seaport-Import),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
 - 2.The Additional Commissioner of Customs, Gr.5A,
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
 - 3.The Director General of Foreign Trade and Ex-Officio,
Additional Secretary to Government of India,
Ministry of Commerce and Industry,
Department of Commerce, New Delhi.
- +1 cc to Mr.J.Madanagopal Rao, Advocate Sr.No.83340
+1 cc to Mr.A.P.Srinivas, Advocate Sr.No.83513

CSL/28.12.2018

W.P.No.19784 of 2010
and M.P.No.1 of 2010



WEB COPY