IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.09.2018

CORAM :THE HONOURABLE Mr.JUSTICE S.M. SUBRAMANIAM

W.P.No.1530 of 2016 and
W.M.P.No.1301 of 2016

S.Khodays Silk Twisting Factory Limited,
No.23, Yeshaswini Complex, Kebahalla,
Hanumanth Nagar Road, Sunkadakatte,
Bengaluru - 560 091,
Represented by its Managing
Partner K.S. Suresh ... Petitioner

Vs

1. The Commissioner of Customs,
Chennai IV Commissionerate,
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

2. The Joint/Additional Commissioner of Customs,
Chennai-IV Commissionerate,
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

3. The Additional Director General,
Directorate of Revenue Intelligence,
No.503, Rajarajeshwari Krupa, 3rd ''A'',
Main Road, OMBR Layout, Banaswadi,
Bangalore - 560 043.

4. The Joint Director,
Directorate of Revenue Intelligence,
No.503, Rajarajeshwari Krupa, 3rd ''A'',
Main Road, OMBR Layout, Banaswadi,
Bangalore - 560 043. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to provisionally release the imported goods viz. 100% Mulberry Silk Fabrics without dyed and printed art (raw materials) valued at Rs.70 lakhs approximately, detained vide Detention Memo dated 13.05.2014 and permit clearance of the same in terms Section 110A of the Customs Act, 1962, keeping in mind the payment of Rs.42.65 lakhs made by the petitioner during investigation, pending adjudication.

For Petitioner : Mr.B.Satish Sundar

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to provisionally release the imported goods viz. 100% Mulberry Silk Fabrics without dyed and printed art (raw materials) valued at Rs.70 lakhs approximately, detained vide Detention Memo dated 13.05.2014 and permit clearance of the same in terms of Section 110A of the Customs Act, 1962, keeping in mind the payment of Rs.42.65 lakhs, made by the petitioner during investigation, pending adjudication.

2. The learned counsel for the writ petitioner states that the goods imported by the petitioner are lying in the godown, for the past about three years. There is a possibility of huge damage in the event of keeping the goods for any longer. It is admitted by the parties that the original proceedings initiated by the competent authorities are now pending for adjudication.

3. Under these circumstances, the learned counsel for the petitioner states that the provisional release of the imported goods is imminent, in view of the fact that the goods are lying for about three years in the godown, which would cause monetary loss to the petitioner. The learned counsel further informs this Court that even before the issuance of show cause notice, the petitioner had paid the dues, amounting to Rs.42.65 lakhs and it is lying with the respondents. Thus, provisional release is mandatory and the 2nd respondent should consider the same mentioned above, during the adjudication of the original proceedings.

4. Under these circumstances and on considering the factual scenario, this Court is of an opinion that an early disposal of the original proceedings are imminent.

5. The learned counsel for the respondents states that the adjudication is in progress and the authorities will initiate all steps to complete the proceedings at the earliest.

6. In view of the submissions made, the 2nd respondent is directed to proceed with the adjudication of the Proceedings in D.R.I.F.No.S/XIII/10/2014-PF KHODAYS dated 08.05.2015, and complete the same and pass final orders on merits and in accordance with law and also by providing reasonable opportunities to the parties concerned, within a period of four months from the date of receipt of a copy of this order. In

addition to that, during the pendency of the original proceedings, the respondents shall consider the claim of the writ petitioner for provisional release of the imported goods, in accordance with law.

With these observations, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Customs,
   Chennai IV Commissionerate,
   Custom House,
   No.60, Rajaji Salai,
   Chennai - 600 001.

2. The Joint/Additional Commissioner of Customs,
   Chennai-IV Commissionerate,
   Custom House,
   No.60, Rajaji Salai,
   Chennai - 600 001.

3. The Additional Director General,
   Directorate of Revenue Intelligence,
   No.503, Rajarajeshwari Krupa, 3rd ''A'',
   Main Road, OMBR Layout, Banaswadi,
   Bangalore - 560 043.

4. The Joint Director,
   Directorate of Revenue Intelligence,
   No.503, Rajarajeshwari Krupa, 3rd ''A'',
   Main Road, OMBR Layout, Banaswadi,
   Bangalore - 560 043.

+1cc to Mr.A.P.Srinivas, Advocate, SR.No.63041

W.P.No.1530 of 2016

PA(CO)

rrs 17/10/2018