IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A.Nos.851 to 853 of 2018

CMP Nos.7476, 7478 & 7480 of 2018

1. The Commissioner of Customs,
(Seaport-Imports), Customs House,
No.60, Rajaji Salai,
Chennai - 600 001.

2. The Additional Commissioner of Customs (Gr.5A),
Customs House,
No.60, Rajaji Salai,
Chennai - 600 001.

3. The Assistant Commissioner of Customs (Gr.5A),
Customs House,
No.60, Rajaji Salai,
Chennai - 600 001. .. Appellants in all Was

versus

M/s.Atul Automotion Private Limited,
No.8, Bentinck Street, Tahar Mansion,
Kolkatta 700 001, West Bengal,
Rep. by its Director,
Mr.Khetan Kamdar .. Respondent in all Was

Writ Appeals filed against the common order dated 27.07.2012 in W.P.Nos.19078 to 19080 of 2012.

Prayer in W.P.No.19078:

Petitions filed Under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to provisionally assess and permit clearance of 123 units of secondhand Digital Multifunction Print & Copying Machines forming the subject matter vide Bill of Entry No.6952061 dated 28.05.2012 upon the payment of applicable duties of Customs on the enhanced assessable value as determined by the chartered engineer.

Prayer in W.P.No.19079 of 2012:

Petitions filed Under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to provisionally assess and permit clearance of 210 units of secondhand Digital Multifunction Print & Copying Machines forming the subject matter vide Bill of Entry No.7177211 dated 21.06.2012 upon the payment of applicable duties of Customs on the enhanced assessable value as determined by the chartered engineer.

Prayer in W.P.No.19080 of 2012:

Petitions filed Under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to provisionally assess and permit clearance of 120 units of secondhand Digital Multifunction Print & Copying Machines forming the subject matter vide Bill of Entry No.7238998 dated 28.06.2012 upon the payment of applicable duties of Customs on the enhanced assessable value as determined by the chartered engineer.

For Appellants : Mr.A.P.Srinivas
Central Government Standing Counsel.

COMMON JUDGMENT

(Order of the Court was delivered by S.MANIKUMAR, J.)

Common order made in W.P.Nos.19078 to 19080 of 2012, dated 27.07.2012, is extracted hereunder:

"Since all the three writ petitions arise out of common issue, they are taken up together and disposed of by a common order.

> 2. Learned counsel appearing for the petitioners submitted that the issue raised in these writ petitions is covered by the common order dated 11.07.2012 passed in W.P.13050 of 2012 etc batch cases. In the said batch of cases, while following the order passed by this Court in W.P.Nos.21732 and 21733 of 2011 dated 27.02.2012 and the order passed by Madurai Bench of the Madras High Court in W.P.No.2401/2012 etc batch dated 09.04.2012, this Court in paragraph 8 held as follows:-

> "Accordingly, the writ petitions are allowed with a direction to the authorities to release the goods in question which had already been inspected by the authorised engineers, on payment of the appropriate customs duty, subject to the adjudication process conducted as per the relevant provisions of law and in case relating to goods not been inspected by authorised chartered engineers, the customs authorities concerned shall direct the inspection of such goods before they are released and such goods may be directed to be released on payment of the appropriate customs duty and on the fulfillment of the conditions prescribed by law. No costs. Consequently, connected miscellaneous petitions are closed. It is also made clear that the impugned goods may be released as expeditiously as possible."
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> 3. It is stated by the learned Standing Counsel appearing for the respondents/Customs that against the order passed by this Court in W.P.Nos.21732 and 21733 of 2011 by order dated 27.02.2012, the Customs Department had filed Writ Appeal in W.A.No.824 of 2012 etc batch and the same is pending before the Division Bench of this Court.
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> 4. In the light of the consistent view taken by this Court in similar issues, this Court finds it appropriate to follow the same line of reasoning in these writ petitions also. Accordingly, the writ petitions are allowed with a direction to the authorities to release the goods in question which had already been inspected by the authorised engineers, on payment of the appropriate customs duty, subject to the adjudication process conducted as per the relevant provisions of law and in case relating to goods not been inspected by authorised chartered engineers, the customs authorities concerned shall direct the inspection of such goods before they are released and such goods may be directed to be released on payment of the appropriate customs duty and on the fulfillment of the conditions prescribed by law. No costs. Consequently, connected miscellaneous petitions are closed. It is also made clear that the impugned goods may be released as expeditiously as possible."

2. Perusal of the same, shows that by following an earlier order in W.P.Nos.21732 and 21733 of 2011, dated 27.02.2012, this writ Court ordered provisional release of goods. Reference has

been made to WA Nos.824 of 2012 etc. batch, pending at the time of provisional release, vide common order in W.P.Nos.19078 to 19080 of 2012, dated 27.07.2012.

3. Though, common order is assailed on various grounds, on this day, when the Miscellaneous Petitions filed to condone the delay, came up for hearing, Mr.A.P.Srinivas, learned Standing Counsel for the appellants fairly submitted that WA No.824 of 2012 etc. batch, ended against the department. Submission is placed on record.

4. In view of the above, instant writ appeals have to be dismissed. According, the same are dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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