

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.446 of 2018
and C.M.P.No.3891 of 2018

1. The Commissioner of Customs,
Chennai III (SIIB), "Custom House",
No.60, Rajaji Salai,
Chennai - 600 001.
2. The Commissioner of Customs (Group-6),
"Custom House",
No.60, Rajaji Salai, Chennai - 600 001.
3. The Additional Commissioner of Customs (Group - 6),
"Custom House"
No.60, Rajaji Salai,
Chennai - 600 001. ... Appellants

Vs.

M/s.Mahi Enterprises,
Rep by its Power of Attorney,
Mr.Sherkhan, No.89, Narayana Mudali Street,
Shop No.3, 5th Floor,
Chennai - 600 079. ... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order of this Court, dated 02.01.2018, made in W.P.No.33186 of 2017.

W.P.No.33186 of 2017:

Writ Petition filed under Article 226 of the constitution of India for issuance of Writ of Mandamus, directing the Respondents to release the goods viz 15 cartones of Skate Board , 15 cartons of Skate Board , 100cartons of Baby Chair, 10cartons of Skate Slider, 10 cartons of skate Slider , 5 cartons of Skate slider , 50 cartons of Plastic Fruit , 50 Cartons of Yoga Mat , 50 cartons of Yoga Mat , 100 cartons of Chalk 54 cartons of Brook Stick(Grade c) 26 cartons of Watch(unbrabded) 2 cartons of Frame and 85 cartons of Water Ball imported vide Bill of entry No.3910964, dated 07.11.2017 except 78 cartons, after collections appropriate and proportionate duty for the total/entire quantity of the goods imported under the customs Act.

For Appellants : Mr.V.Sundareswaran
For Respondent : Mr.A.K.Jayaraj

J U D G E M E N T

(Judgement of the Court was made by S.MANIKUMAR, J.)

M/s.Mahi Enterprises, represented by its Power of Attorney has filed a writ petition seeking Mandamus directing the respondents therein to release the goods viz., 15 cartons of skate board, 15 cartons of skate board, 100 cartons of baby chair, 10 cartons of skate slider, 10 cartons of skate slider, 5 cartons of skate slider, 50 cartons of plastic fruit, 50 cartons of yoga mat, 50 cartons of yoga mat, 100 cartons of chalk, 50 cartons of brook stick (Grade C), 26 cartons of watch (unbranded), 2 cartons of frame and 85 cartons of water ball, imported vide Bill of Entry No.3910964, dated 07.11.2017, except 78 cartons after collecting appropriate and proportionate duty for the total/entire quantity of goods imported under the Customs Act.

2. Having considered the rival submissions, Writ Court, vide order dated 02.01.2018, ordered as under:

"4. In the light of the above, the present Writ Petition is disposed, by directing the petitioner to seek for re-export of the 78 cartons of cargo, containing adult toys, and if such application is made, the Authorities are directed to consider the same, simultaneously, consider the clearance of the remaining cargo, which prima facie appears to be not prohibited goods for import. The above exercise shall be completed within a period of three weeks from the date on which, the petitioner files application for re-export of 78 cartons of adult toys."

3. Being aggrieved, Commissioner of Customs, Chennai III (SIIB), "Customs House", Chennai and two others have filed the instant writ appeal No.446 of 2018.

4. After hearing the learned counsel for parties, on 28.04.2018, we permitted the writ petitioner to make an application to release the goods declared and subject to the procedure, department would consider it as expeditiously as possible.

5. On this day, when the matter came up for hearing, learned counsel for respondent submitted that on 04.05.2018, an application has been made to the Commissioner of Customs, Chennai III (SIIB), "Customs House", Chennai for release of

goods and that the same is pending.

6. Mr.V.Sundareswaran, learned counsel for the Revenue submitted that on 22.05.2018, a show cause notice under Section 28 and Section 124 of Customs Act has been issued to the writ petitioner for import of adult toys, wrist watches, skate boards and other prohibited goods.

7. Mr.A.K.Jayaraj, learned counsel for the respondent further submitted that reply to show cause notice is yet to be submitted and that the respondent would submit the same at the earliest. He has further submitted that adjudication proceedings be directed to be expedited.

8. Mr.V.Sundareswaran, learned counsel for Revenue submitted that adjudication proceedings would be expedited. Submission is placed on record.

9. Heard the learned counsel for parties and perused the materials available on record.

10. Copy of the show cause notice dated 22.05.2018, issued under Section 28 and Section 124 of the Customs Act is treated as part of the record. As the learned counsel for the Revenue submitted that the adjudication proceedings would be expedited, we direct the Additional Commissioner of Customs (SIIB), Commissionerate - III, Chennai, to complete the adjudication and pass orders within four weeks from today, duly complying with the statutory procedure contemplated under the Customs Act and the Rules framed thereunder. While doing so, the adjudicating authority is also directed to pass appropriate orders as regards release of goods as directed earlier.

11. With the above directions, writ appeal is disposed of accordingly. Consequently, the connected miscellaneous petition is closed. No costs.

सत्यमेव जयते
s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Commissioner of Customs,
Chennai III (SIIB), "Custom House",
No.60, Rajaji Salai,
Chennai - 600 001.

2. The Commissioner of Customs (Group-6),
"Custom House",
No.60, Rajaji Salai, Chennai - 600 001.

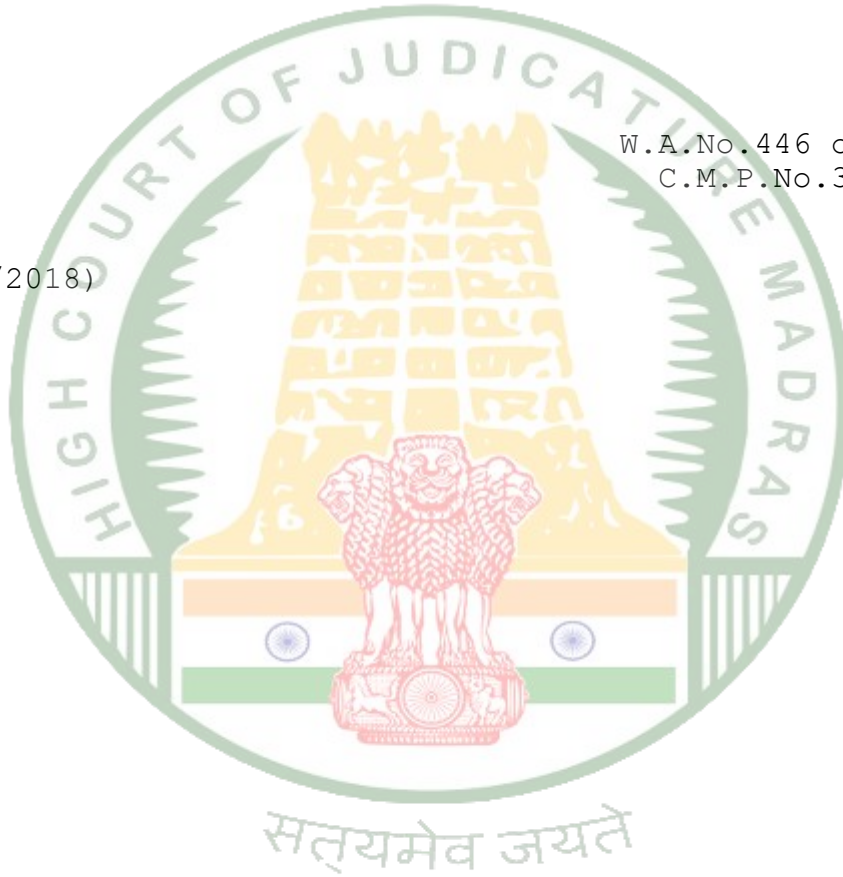
3. The Additional Commissioner of Customs (Group - 6),
"Custom House"
No.60, Rajaji Salai,
Chennai - 600 001.

+1 CC to Mr.A.K. Jayaraj, Advocate sr 42421.

+1 CC to Mr.V. Sundareswaran, Advocate sr 42867.

W.A.No.446 of 2018 and
C.M.P.No.3891 of 2018

NA (CO)
GSP (04/07/2018)



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