IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.Nos.23415 to 23426 of 2002

M/s.Sri Maharaja Industries,
rep by its Proprietor K.Paramasivam,
128, Bhavani Road, Erode - 638 004.
.. Petitioner in all W.Ps

Vs.

1.Union of India
rep by the Secretary,
Ministry of Law, Justice & Company Affairs,
New Delhi.

2.The Government of India,
rep by the Secretary,
Ministry of Finance,
Department of Revenue, New Delhi.

3.The Commissioner of Customs (C),
Customs House, Rajaji Salai,
Chennai - 600 001.

4.The Deputy Commissioner of Customs,
Group I & II,
Customs House, Rajaji Salai,
Chennai - 600 001.
.. Respondents in all W.Ps

W.P.No.23415 of 2002 filed under Article 226 of the Constitution of India to issue Writ of declaration declaring Sub Section (2) of Section 14 of the Customs Act to be illegal, unenforceable in so far as it relates to imported goods and in so far as the petitioner is concerned.

W.P.Nos.23416 to 23426 of 2002 filed under Article 226 of the Constitution of India to issue Writ of certiorarified mandamus calling for the records of the 3rd/4th respondent relating to Bill of Entry Nos.023599, 024659, 016766, 023598, 023346, 16629, 023597, 017784, 023344, 018895, 023345, dated 16.11.2001, 04.12.2001, 21.08.2001, 16.11.2001, 13.11.2001, 10.08.2001, 16.11.2001, 23.08.2001, 13.11.2001, 11.09.2001, 13.11.2001 - quantity – 991.658 M.Ts., 1496.873 M.Ts., 1000.641 M.Ts., 446.549 M.Ts., 2991.104 M.Ts., 997.056 M.Ts., 199.198 M.Ts., 500.00 M.Ts., 800.248 M.Ts., 483.040 M.Ts., 49.460 M.Ts., - R.B.D. Palmolein and quash the determination of the value of the goods and the duty and consequently direct the 3rd/4th respondents to re-assess the value of the goods under Section 14 (1) of the Customs Act, the customs duty therefor and refund the excess customs duty collected from the petitioner.

For Petitioner : Mr.V.Sanjeevi
(in all W.Ps.)

For Respondent : Mr.V.Sundareswaran,
(in all W.Ps) Standing Counsel

C O M M O N O R D E R

W.P.No.23415 of 2002 has been filed by the petitioner to issue a writ of declaration declaring Sub Section (2) of Section 14 of the Customs Act to be illegal, unenforceable in so far as it relates to imported goods and in so far as the petitioner is concerned.

2.W.P.Nos.23416 to 23426 of 2002 have been filed by the petitioner to issue writs of certiorarified mandamus calling for the records of the 3rd/4th respondent relating to Bill of Entry dated 16.11.2001, 04.12.2001, 21.08.2001, 16.11.2001, 13.11.2001, 10.08.2001, 16.11.2001, 23.08.2001, 13.11.2001, 11.09.2001, 13.11.2001 and to quash the determination of the value of the goods and the duty and consequently direct the 3rd/4th respondents to re-assess the value of the goods under Section 14(1) of the Customs Act, the customs duty therefor and refund the excess customs duty collected from the petitioner.

3.Heard Mr.V.Sanjeevi, learned counsel for the petitioner and Mr.V.Sundareswaran, learned standing counsel for the respondents.

4.When the matters were taken up for hearing, the learned counsel for the petitioner submitted that in the judgment reported in 2015 (321) E.L.T. 192 (S.C.) [Union of India Vs. Param Industries Ltd.], the Apex Court held as follows:

"...

> 3.What we find is that the High Court has stated that for bringing the notification into force and make it effective, two conditions are mandatory, viz., (1) Notification should be duly published in the official gazette, (2) it should be offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi. In the

present case, admittedly, second condition was not satisfied inasmuch as it was offered for sale only on 6-8-2001, as it was published on 3-8-2001 in late evening hours and 4/5-8-2001 were holidays.

...

7.On the facts of these appeals as well, we find that though the notification may have been published on the date when the goods were cleared, it was not offered for sale by the concerned Board, which event took place much thereafter. Therefore, it was not justified and lawful on the part of the Department to claim the differential amount of duty on the basis of said notification. These appeals are, accordingly, allowed only on this ground and it is not necessary to go into other issues at all.”

5.The learned counsel appearing for the petitioner submitted that in view of the judgment reported in 2015 (321) E.L.T. 192 (S.C.) [Union of India Vs. Param Industries Ltd.], the petitioner would work out their remedy before the appropriate Authorities, for which, the learned standing counsel for the respondents has no objection.

6.In view of the submissions made by the learned counsel on either side, the Writ Petitions are disposed of giving liberty to the petitioner to work out their remedy before the appropriate Authorities in accordance with law. In such an event, the Authorities shall decide the case of the petitioners on merits and in accordance with law as per the judgment reported in 2015 (321) E.L.T. 192 (S.C.) [Union of India Vs. Param Industries Ltd]. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

va

To

1.The Secretary, Union of India,
Ministry of Law, Justice & Company Affairs,
New Delhi.

2.The Secretary, Government of India,
Ministry of Finance,
Department of Revenue,
New Delhi.

3.The Commissioner of Customs (C),
Customs House, Rajaji Salai,
Chennai - 600 001.

4.The Deputy Commissioner of Customs,
Group I & II,
Customs House, Rajaji Salai,
Chennai - 600 001.

+2cc to Mr.V.SUNDARESWARAN, Advocate, S.R.No. 17674
+1cc to Mr.V.SANJEEVI, Advocate, S.R.No. 17879

W.P.Nos.23415 to 23426 of 2002

AK(CO)
TR(23/03/2018)