IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.14563 of 2001
and W.M.P.Nos.21619 & 23897 of 2001

M/s.Gnana Deepam Enterprises Pvt Ltd.,
rep by its Director D.Paul Raj
No.53 - A6, Thiruvalluvar Nagar,
Sarguna Veedi, Nagercoil - 629 001. .. Petitioner

Vs.

1.Union of India
rep by the Secretary to Government,
Ministry of Finance,
Department of Revenue,
New Delhi.

2.The Commissioner of Customs (Sea),
Customs House, Chennai.

3.The Deputy Commissioner of Customs,
Gr- I, Customs House, Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue Writ of mandamus directing the 3rd respondent to permit the clearance of the imported RBD Palmolein (Edible Grade) covered under Bill of Lading No.BLW/AIP-16A, 16B, 191-A to 191-F dated 12/13.07.2001 shipped per "M.T.DUGAVA" V-09/10 on payment of the assessed customs duty as per the Bills of Entry filed and assessed during 20.07.2001 to 26.07.2001 by the 3rd respondent.

For Petitioner : Mr.K.Jayachandran

For Respondent : Mr.T.Pramod Kumar Chopda,
Senior Standing Counsel

O R D E R

The Writ Petition has been filed by the petitioner to issue a writ of mandamus directing the 3rd respondent to permit the clearance of the imported RBD Palmolein (Edible Grade) covered under Bill of Lading dated 12/13.07.2001 shipped per "M.T.DUGAVA" V-09/10 on payment of the assessed customs duty as per the Bills of Entry filed and assessed during 20.07.2001 to 26.07.2001 by the 3rd respondent.

2.Heard Mr.K.Jayachandran, learned counsel for the petitioner and Mr.T.Pramod Kumar Chopda, learned senior standing counsel for the respondents.

3.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."

4.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 senior standing counsel for the respondents has no objection.

5.In view of the submissions made by the learned counsel on either side, the Writ Petition is 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. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

va

To

1.The Secretary to Government,
Union of India,
Ministry of Finance,
Department of Revenue,
New Delhi.

2.The Commissioner of Customs,
Customs House, Chennai.

3.The Deputy Commissioner of Customs,
Gr- I, Customs House, Chennai.

+1cc to Mr.T.Pramod Kumar Chopda, Advocate SR.No.18159

W.P.No.14563 of 2001
and W.M.P.Nos.21619 & 23897 of 2001

SS(CO)
GN(23/03/2018)