

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.10.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.NOS.1801 AND 1802 OF 2011
AND MP NOS.1 OF 2011 (2 IN NOS.)

Director General of Foreign Trade and Ex-Officio,
Additional Secretary to Government of India,
Ministry of Commerce and Industry,
Department of Commerce,
New Delhi

... Appellant in both the
appeals

-vs-

1. M/s Kamakshi Enterprises,
103, New Pandit Buildings,
Gr.Floor Bhawani Shgankar Road,
Dadar (W) Mumbai 400 028
Rep by its Proprietor Mrs.Padma,
M. Deshmukh
2. The Commissioner of Customs
(Seaport-Exports)
Customs House,
No.60, Rajaji Salai,
Chennai - 600 001
3. The Additional Commissioner of Customs,
(Group 7B), Custom House,
No.60, Rajaji Salai,
Chennai - 600 001

..... Respondents in W.A.No.1801 of 2011

1. M/s Vatsala Graphics,
rep by its authorised signatory, A. Ganesan
2/17, Avadi Road,
Seneerkuppam,
Poonamallee,
Chennai - 600 056

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

... Respondents in W.A.No.1802 of 2011

W.A.No.1801 of 2011:-

Writ Appeal filed under Clause 15 of Letters Patent against the Order dated 27.04.2011 made in W.P.No.11009 of 2011 passed by the learned Single Judge.

W.P.No.11009 of 2011:-

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus Directing the respondents 1 & 2 herein to permit the clearance of the 72 units of the Second Hand Digital Multifunction Print & Copying Machines forming the subject matter vide Bill of Entry No. 3225139 dt 15.4.2011 enhanced C.I.F. of Rs.15,11,483/- under free import as Second hand capital goods as provided under para 2.17 read with definition under para 9.12 of the Foreign Trade Policy of 2009-14 without imposing any restriction in the absence of any specific notification issued by the 3rd respondent restricting the import of the said goods under section 5 read with Sec.3(2) of the Foreign Trade (Development and Regulation) Act 1992.

W.A.No.1802 of 2011:-

Writ Appeal filed under Clause 15 of Letters Patent against the Order dated 28.04.2011 made in W.P.No.11403 of 2011 passed by the learned Single Judge.

W.P.No.11403 of 2011:-

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus Directing the 1st and 2nd Respondents herein to Release the goods viz. 109 Units of Old and Used Digital Multifunction Printing & Copying Machines imported vide Bill of Entry No.3265290, dated 20.04.2011 as Second Hand Capital goods in terms of para 2.17 read with Definitions under 9.12 of Foreign Trade Policy 2009-2014 without imposing any restriction in the absence of specific restriction in Para 2.17 of Foreign Trade Policy and in Para 2.33 of Hand Book of Procedure 2009-2014 and any Notification by 3rd Respondent.

For Appellant : Mr.Rabu Manohar
Standing Counsel

For Respondent : Mr.K.Magesh for
R2 & R3 in Both

COMMON JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Acting Chief Justice)

These Writ Appeals have been filed by the Additional Secretary to Government, Director General of Foreign Trade and Ex-Officio, Ministry of Commerce and Industry against the Orders dated 27.04.2011 in W.P.No.11009 of 2011 (W.A.No.1801 of 2011) and 28.04.2011 in W.P.No.11403 of 2011 (W.A.No.1802 of 2011) .

2. The learned Single Judge, in the Order impugned, directed the petitioner in both the Writ Petitions, who are the first respondent in the Writ Appeals, to deposit 25% of the enhanced value, apart from paying the applicable rate of duty on the enhanced value and upon complying with the above said conditions, further directed the appellant/who is the third respondent in both the writ petitions to release the goods, in question, with liberty to them to proceed further with the adjudication proceedings, in accordance with law.

3. Having perused the Order of the learned Single Judge, we are satisfied that there is no error in the said order and the same does not require any interference.

4. Therefore, both the Writ Appeals are dismissed as they are devoid of merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

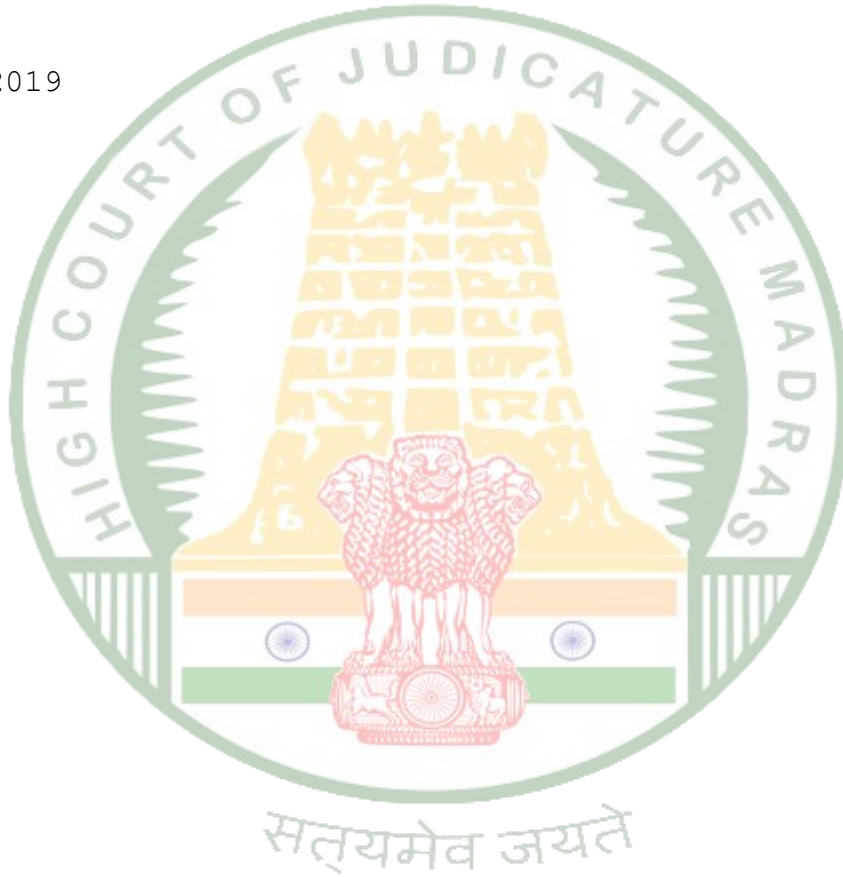
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+lcc to Mr.Rabu Manohar, Advocate, S.R.No.90038

W.A.Nos.1801 and 1802 of 2011

PPA(CO)
CS/09/12/2019



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