IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 07.01.2019
CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.14002 of 2005
&
W.P.M.P.No.15321 of 2005

Sumangala Steel Pvt. Ltd.,
Rep by its General Manager,
45, Chamiers Road,
Chennai - 600 028. ...Petitioner

..Vs..

1.The Directorate General of Foreign Trade,
Ministry of Commerce and Industry,
Government of India, Udyog Bhavan,
New Delhi.

2.The Commissioner of Customs (Ports),
Customs House, 60,
Rajaji Salai, Chennai - 600 001. ...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the first respondent from implementing the policy circular No.19/2004-09 dated 18.02.2005 for the unshredded, compressed metal scrap, loose form metal scrap/origin for import into India prior to 18.02.2005 insofar as the petitioner is concerned and consequently direct the second respondent/Customs Department to accept the Pre Inspection certificate of the Branch Office of the accredited inspection agencies registered under Appendix-28 of the Handbook of procedure for clearing the metal scrap which left the port of loading prior to 18.02.2005 as long as the certificates satisfy the guidelines contained in Ministry of Finance, Department of Revenue, New Delhi, Circular No.56/04 Customs under F.No.450/108/04 dated 18.10.2004, notwithstanding that such branch offices have not been registered under Appendix-28 of the Handbook of procedure or National Accredition Body of the Country of origin of imported scrap as per the Policy Circular No.19/2004-09 dated 18.02.2005 insofar as the petitioner is concerned.

For Petitioner : Mr.Goutham S.Raman
for Mr.C.Seethapathy

For Respondents: No appearance (for R.1)
Mrs.Dr.S.Seethalakshmi
Standing Counsel for Customs (For R2)

O R D E R

The relief sought for in the present writ petition is to forbear the first respondent from implementing the policy circular No.19/2004-09 dated 18.02.2005 for the unshredded, compressed metal scrap, loose form metal scrap/origin for import into India prior to 18.02.2005 insofar as the petitioner is concerned and consequently direct the second respondent/Customs Department to accept the Pre Inspection certificate of the Branch Office of the accredited inspection agencies registered under Appendix-28 of the Handbook of procedure for clearing the metal scrap which left the port of loading prior to 18.02.2005 as long as the certificates satisfy the guidelines contained in Ministry of Finance, Department of Revenue, New Delhi, Circular No.56/04 Customs under F.No.450/108/04 dated 18.10.2004, notwithstanding that such branch offices have not been registered under Appendix-28 of the Handbook of procedure or National Accredition Body of the Country of origin of imported scrap as per the Policy Circular No.19/2004-09 dated 18.02.2005 insofar as the petitioner is concerned.

2.The learned counsel for the writ petitioner fairly made a submission that the issues raised in the present writ petition were already adjudicated by this Court in a batch of writ petitions in WP No.8740 of 2005, etc., and a judgment was reported in (2009) SCC OnLine Madras 2546 and the relative portion of the orders in paragraph 15 is extracted hereunder:

> "15.In such view of the matter since the goods have been cleared provisionally based on the orders of the Court, the Customs Department will be entitled to finalize the provisional assessment and if necessary they are entitled to proceed the matter in accordance with the provisions of the Customs Act, if there is any breach of the import policy or the provisions of the Customs Act. The relief sought for in the writ petitions not to implement the DGFT Policy Circular No.19/2004-09 dated 18.02.2005 is premature and misconceived. The Department should be allowed to take an unbiased decision in the matter and no direction will be issued by this Court to proceed with the assessment in one way or the other. It will amount to encroaching upon the functions and duties of the Customs Department. The relief sought for by the petitioners is premature and no cause of action has arisen. The Department, however, is at liberty to finalize the provisional assessment made in respect of the goods cleared as per the orders of this Court and proceed further in the matter. All the writ petitions stand disposed off

with the above observations. Petitioners are at liberty to agitate their plea on merits before the Authorities as and when the issue arises for consideration. The injunction granted till the disposal of the writ petitions in miscellaneous petitions is vacated. Consequently, connected miscellaneous petitions are closed. There will be no order as to costs."

3.In view of the decision of this Court, no further adjudication needs to be undertaken in respect of the grounds raised in the present writ petition. Accordingly, this writ petition stands disposed of in terms of the order cited supra. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//
Sub Assistant Registrar

mrm/cse

To

1.The Directorate General of Foreign Trade,
Ministry of Commerce and Industry,
Government of India, Udyog Bhavan,
New Delhi.

2.The Commissioner of Customs (Ports),
Customs House,
60,Rajaji Salai, Chennai - 600 001.

Copy To:

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.C.Seethapathy, Advocate, S.R.No.1270
+1cc to Dr.S.Seethalakshmi, Advocate, S.R.No.1740

W.P.No.14002 of 2005

GJII(CO)

rrs 06/02/2019