IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 11.03.2019

CORAM

THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

WP.No.33741 of 2018
and
WMP. No.39165 of 2018

M/s.PAS Petro Product rep
by its Partner
S.Senthilkumar ... Petitioner

Vs.

1. The Commissioner of Customs,
   Customs House, Rajaji Salai,
   Chennai.

2. The Additional Commissioner of Customs,
   Group-II, Chennai Customs,
   Rajaji Salai, Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus or any other appropriate writ, order or direction, in the nature of writ forbearing the respondents from in anyway imposing Anti-dumping duty for import of the product namely, “Disodium carbonate-Soda ash”found under sub-heading 283620 of the Customs Tariff Act, 1975 (51 of 1975) in view of the lapse of the Principal Notification No.34/2012-Customs (ADD), New Delhi dated 03.07.2012 and the subsequent extension in Notification No.33/2017-Customs(ADD) on 02.07.2018.

For Petitioner : Mr.D.Saikumaran

For Respondents : Mr.G.M.Syed Nurullah Sheriff, Standing Counsel.

ORDER

Heard Mr.D.Saikumaran, learned counsel appearing for the petitioner and Mr.G.M.Syed Nurullah Sheriff, Standing Counsel appearing for the respondents.

2. This Writ Petition seeks a Mandamus forbearing the respondent from in anyway imposing Anti-dumping duty for import of the product namely, ' Disodium carbonate-Soda ash' clarified under sub-heading 283620 of the Customs Tariff Act, 1975 (51 of 1975) in view of the lapse of the Principal notification No.34/2012-Customs (ADD), New Delhi dated 03.07.2012 and the subsequent extension in Notification No.33/2017-Customs(ADD) on 02.07.2018.

3. Mr.Noorullah, Standing Counsel fairly circulates a copy of the decision of this Court in the case of M/s.Sri Varahi Chemicals Vs. The Commissioner of Customs dated 24.01.2019 passed in WP. No.30628 of 2018, wherein, this Court has decided an identical question as the one arising in this writ petition. In conclusion, this Court has held at paragraph No.6 as follows:

> '6. There is no dispute to the fact that the anti-dumping duty was imposed in pursuant to the Notification issued as stated supra. It is also not in dispute that the right to collect such anti-dumping duty got expired on 02.07.2018. Even otherwise, as it is admitted by the respondents in the counter affidavit that the DGAD has already passed an order on 14.12.2018 holding that the continuation of anti-dumping duty is not warranted and thus, he is not recommending for the extension of the anti-dumping duty on import of subject matter from the subject countries. It is an admitted case of the respondents that as on date, no notification is in force empowering the collection of ADD. On the other hand, it is a matter of fact such power conferred on the authorities through issuance of relevant notification ceased to exist after 02.07.2018. Hence, I am of the view that there is no justification on the part of the respondents in seeking for any interim protection for releasing the goods without collecting the anti-dumping duty on the reason that the order passed by DGAD dated 14.12.2018 is an appellable order. Needless to say that the respondents cannot insist upon the petitioner to protect the interest of the Revenue towards the anti-dumping duty in the absence of any statutory right available as on today for levying & collecting such duty. On the

other hand, it is an admitted fact that such right has already ceased to exist on 02.07.2018, which right was also not recommended to continue by the DGAD by proceedings dated 14.12.2018.'

4. The Bill of Entry in the present case is dated 20.10.2018, and the transaction is thus occasioned after the lapse of the notifications in question, being Notification No.34/12 and Notification No.33/17 valid till 02.07.2018. In the light of the aforesaid, this Writ Petition is allowed. Connected miscellaneous petition is closed with no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rkp

To:

1. The Commissioner of Customs,
   Customs House, Rajaji Salai,
   Chennai.

2. The Additional Commissioner of Customs,
   Group-II, Chennai Customs,
   Rajaji Salai, Chennai.

+1 cc to Mr.D.Saikumaran, Advocate, S.R.No.22420

+1 cc to Mr.G.M.Syed Nurullah Sheriff, Advocate, S.R.No.22480

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and
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CP(CO)
SSM(15/04/2019).