BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.6563 of 2019
and
W.M.P.[MD]No.5253 of 2019

Vedanta Limited
(Formerly known as Sesa Sterlite Ltd),
Represented by its
Assistant General Manager (Indirect Taxes),
SIPCOT Industrial Complex,
Madurai Bye-pass Road,
T.V Puram P.O., Tuticorin - 628 002. : Petitioner

Vs.

1.Union of India,
Through the Joint Secretary,
Ministry of Law and Justice,
4th Floor, A-Wing, ShastriBhawan,
New Delhi - 110 001.

2.Director General of Foreign Trade,
UdyogBhawan, H-Wing, Gate No.2,
Maulana Azad Road,
New Delhi - 110 011.

3.Norms Committee,
Director General of Foreign Trade,
UdyogBhawan, H-Wing, Gate No.2,
Maulana Azad Road, New Delhi - 110 011.

4.Regional Authority,
Joint Director General of Foreign Trade,
O/o. Joint Director General of Foreign Trade,
No.117, 1st Street, K.K. Nagar,
Madurai.

5.Assistant Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin - 628 004. : Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the fifth respondent from proceeding with adjudication of Show Cause Notice C.No.VIII/48/136/2016 dated 14.06.2018 till such time that the third respondent disposes of petitioner application dated 17th April, 2015 for ratification of norms.

For Petitioner : Mr.Veera Kathiravan
Senior Counsel for Mr.Y.Prakash
For Respondents 1 to 4 : Mr.B.Narayanram
For Respondent No.5 : Mr.B.Vijay Karthikeyan

O R D E R

The instant Writ Petition has been filed for a Mandamus forbearing the fifth respondent from proceeding with adjudication of Show Cause Notice C.No.VIII/48/136/2016 dated 14.06.2018 till the third respondent disposes of the petitioner's application dated 17th April, 2015 for ratification of norms.

2.It is the case of the petitioner that they are not liable to pay customs duty for the goods for which the show cause notice dated 14.06.2018 has been issued by the fifth respondent as they are having an advance license for those goods also. Since, the fifth respondent had raised objections, the petitioner had approached the Norms Committee.

3.Today, the learned Counsel for the respondents 1 to 4 has placed before this Court the minutes of the Norms Committee-II in its Meeting No.01/81-ALC2/2019 dated 10.04.2019, wherein it has been ratified that Copper in unrefined copper blister and Copper in Copper anode as well as other goods mentioned in Serial Nos. 1 to 5 have been ratified by the Norms Committee. Therefore, it is evidently clear that the goods imported by the petitioner namely Copper in unrefined Copper blister and Copper in Copper anode are exempted from payment of customs duty under the advanced license issued to the petitioner. The fifth respondent has issued the show cause notice dated 14.06.2018 to the petitioner on the ground that there is no advance license in favour of the petitioner for Copper in unrefined copper blister and copper in copper anode which was imported by the petitioner and therefore they are liable to pay customs duty for the said imported goods.

4.In view of the ratification by the Norms Committee that copper in unrefined copper blister and copper in copper anode also falls within one of the goods in the advance license issued by the petitioner, it is evidently clear that no customs duty is payable by the petitioner for the aforesaid goods and therefore the respondent No.5 cannot levy customs duty for the said goods on the petitioner. Recording the submissions of the learned Counsel for the respondents 1 to 4 that the Norms Committee has ratified that copper in unrefined copper blister and copper in copper anode which was imported by the petitioner is exempted from the payment of customs, the show cause notice issued by the fifth respondent may have to necessarily go. However, it is for the fifth respondent to take a final decision in the light of ratification of the Norms Committee under its minutes dated 10.04.2019, which was placed before this Court today within a period of four [4] weeks from the date of receipt of a copy of this order.

5.With the aforesaid direction, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1.Joint Secretary,
Union of India,
Ministry of Law and Justice,
4th Floor, A-Wing, ShastriBhawan,
New Delhi – 110 001.

2.Director General of Foreign Trade,
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4.Joint Director General of Foreign Trade,
Regional Authority,
O/o. Joint Director General of Foreign Trade,
No.117, 1st Street, K.K. Nagar,
Madurai.

5.Assistant Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin – 628 004.

+1 CC to M/s.Y.PRAKASH, Advocate (SR-63919[F] dated 29/04/2019)

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate(SR-64116[F] dated 30/04/2019)

+1 CC to M/s.B.NARAYANA RAM, Advocate (SR-64552[F] dated 30/04/2019)

mr

ORDER MADE IN
W.P.[MD]No.6563 of 2019
29.04.2019

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