IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.813 of 2020
WMP.Nos.972, 974 & 980 of 2020

Shri S.P. Ramu ...Petitioner

--Vs--

1. The Joint Commissioner of Customs (Group-2),
   Commissionertate II Commissionerate,
   Custom House, No.60, Rajaji Salai,
2. The Assistant Commissioner of Customs (RRU)
   Chennai II Commissionerate,
   Custom House, No.60, Rajaji Salai,
   Chennai-600 001
3. The Deputy Commissioner of Customs (Group-2),
   Chennai II Commissionerate
   Customs House, No.60, Rajaji Salai,
   Chennai-600 001 ...Respondents

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned recovery notice dated 14.11.2019 issued in F.No.RRU 29/2019-(Gr.2) by the 2nd respondent and quash the same and further direct the respondents not to take any coercive action for recovering the dues as per Order-in-Original No.15510 of 2011 dated 31.03.2011 passed by the 1st respondent till the disposal of the appeal filed in Diary No.400082020 dated 06.01.2020 by the Hon'ble Tribunal.

For Petitioner: Mr.Hari Radhakrishnan
For Respondent: Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

Heard Mr.Hari Radhakrishnan, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents.

2. The petitioner has challenged recovery notice dated 14.11.2019 passed by the Assistant Commissioner of Customs/R2.

3. The Commissioner of Customs (Appeals) by order dated 24.06.2014 rejected the appeal of the petitioner on the ground of non-payment of pre-deposit amount. This order has attained finality as on date. There is no dispute on this question.

4. It is the case of the petitioner that the petitioner had shifted his office and was not aware of the order having been passed by the first appellate authority and it was only when the impugned recovery notice was received by it through the customs broker that it came to be aware of the order passed in appeal. Thereafter, an appeal has been filed before the Customs, Central Excise and Service Tax Appellate Tribunal (CESTAT) on 06.01.2020 along with application for condonation of delay of 1930 days. The application for condonation is yet to be decided.

5. In the meantime, as far as protection from recovery is concerned, as against a demand of Rs.15 lakhs (approx), a sum or Rs.4 lakhs (approx) has been remitted by the petitioner, that is in excess of the 7.5% of pre-deposit required to be made before the CESTAT. Let a further sum of Rs.5 lakhs be deposited by the petitioner within a period of four weeks from today, upon which payment, the attachment upon the bank accounts shall stand lifted. This payment shall be subject to decision on the appeal pending before the CESTAT.

6. This writ petition is disposed in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ska

To
1.The Joint Commissioner of Customs (Group-2),
Commissionertate II Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

2.The Assistant Commissioner of Customs (RRU)
Chennai II Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-600 001

3.The Deputy Commissioner of Customs (Group-2),
Chennai II Commissionerate
Customs House, No.60, Rajaji Salai,
Chennai-600 001

+1 cc to M/s.A.P.Srinivas, Advocate Sr.No. 13826

Writ Petition No.813 of 2020
WMP.Nos.972, 974 & 980 of 2020

JP1(CO)
RMP(23/03/2021)