

IN HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.12739 to 12741 of 2009

and

M.P.Nos.1, 1 & 1 of 2009

M/s.Goyal Ispat Ltd.,

Rep. by its Director: Mr.Vinod Kothari,

No.21, New No.3, Jones Street,

II Floor, Chennai - 600 001.

...Petitioner in
W.P.No.12739/2009

Sunil Patodia

...Petitioner in
W.P.No.12740/2009

Sardarmal Kothari,

Director of M/s.Goyal Ispat Ltd.,

No.21, New No.3, Jones Street,

II Floor, Chennai - 600 001.

...Petitioner in
W.P.No.12741/2009

Vs.

1.The Union of India,

By its Secretary to Govt.,

Ministry of Finance,

Dept. of Revenue,

New Delhi.

2.The Commissioner of Customs (Sea Port)

Customs House, Rajaji Salai,

Chennai.

3.The Deputy Commissioner of Customs,

Gr. 7A, DEPB, Customs House,

Rajaji Salai, Chennai.

4.The Commissioner of Customs &

Central Excise,

ICE House, EDC Complex,

Patto Plaza, Goa.

... Respondents in
all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the order passed by the 4th respondent in Order.No.9/Commissioner/GOA/CUS/09 dated 23.03.2009 and to quash the same.

For Petitioner : Mr.K.Jayachandran in
all W.Ps.

For Respondents: Mr.A.P.Srinivas,
Senior Standing Counsel, in all W.Ps.

C O M M O N O R D E R

By this common order all the three Writ Petitions are being disposed.

2.In these Writ Petitions, the respective petitioners have challenged the impugned orders dated 25.03.2009 in Order No.09/Commissioner/GOA/CUS/09 passed by the 4th respondent.

3.The respective petitioners have imported under Customs Notification No. 17/2001 dated 01.03.2001. There were allegations with the respective petitioners had not actually used the imported thus violating actual user conditions and had diverted the same in contravention of the import conditions.

4. The officers of the Directorate of Revenue Intelligence, Goa Regional Unit had investigated pursuant to the aforesaid Show Cause Notices issued to the petitioner. It appears that after show cause notices were issued, the respective petitioners also filed reply through their Advocate on 07.07.2006 and 02.06.2008. A personal hearing was fixed at Marma Goa on 24.08.2007 before the respondent.

5.The respective petitioners by represented their counsel had requested to adjourn the case to any date after 15th July 2008 as Senior Counsel was out of country.

6.It appears that vide communication dated 04.06.2008 the venue of personal hearing was changed from Custom House, Marma Goa to Panaji, Goa and the personal hearing was fixed on 10.06.2008. The said communication was received by respective petitioners on 10.06.2008. Under these circumstances, the respective petitioners sent a representation on the same day, referring to their letter earlier dated 05.06.2008 to adjourn the personal hearing to any other dated after 15th July 2008. However, without giving any reply to the representation of the petitioner, 4th respondent proceeded to pass the impugned order violating the principle of natural justice.

7.Under similar circumstances, by an order dated 06.09.2019 in W.P.Nos.25328 & 25329 of 2009, this Court has set aside the orders passed by the 4th respondent and directed the petitioner to appear before the 4th respondent on 18.09.2019 at 10.30 A.M along with all documents in support of

their stand for passing orders. I am inclined to pass similar order in the present cases.

8. Under these circumstances, I am of the view that the impugned orders dated 25.03.2009 in Order No.09/Commissioner/GOA/CUS/09 passed by the 4th respondent are set aside and the case are remitted the case back to the 4th respondent to pass speaking orders within a period of three months from the date of receipt of a copy of this order. Needless to state that before passing such orders, the respective petitioners shall be heard. The 4th respondent shall issue a notice of personal hearing to the respective petitioners before conducting personal hearing and passing fresh orders.

9. The Writ Petitions stands disposed with above observations. No cost. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Union of India,
By its Secretary to Govt.,
Ministry of Finance,
Dept. of Revenue, New Delhi.
2. The Commissioner of Customs (Sea Port)
Customs House, Rajaji Salai, Chennai.
3. The Deputy Commissioner of Customs,
Gr. 7A, DEPB, Customs House,
Rajaji Salai, Chennai.
4. The Commissioner of Customs &
Central Excise,
ICE House, EDC Complex,
Patto Plaza, Goa.

+1cc to Mr.K.Jayachandran , Advocate SR.No. 4053

+1cc to Mr.A.P.Srinivas , Advocate SR.No. 4626

W.P.Nos.12739 to 12741 of 2009
and

M.P.Nos.1, 1 & 1 of 2009

A.SK(11/03/2020)