IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.34766 and 34767 of 2003

M/s.Coastal Diagnostic Services Ltd.,
6-9-15, Shivasakthi Complex
8/1, Arundalpet, Guntur-522002.
... Petitioner in both W.Ps.

Vs.

1.The Commissioner of Customs
(Sea Port), Customs House,
Rajaji Salai, Chennai 600 001.

2.The Asst.Commissioner of Customs
(Group V-B), Customs House,
Rajaji Salai, Chennai-1.

3.The Customs Excise and Service Tax
Appellate Tribunal, South Zonal Bench
Sastri Bhawan Annexe, Haddows Road
Chennai-6.

4 .The Deputy Director General (M)
The Director General of Health Services
M.G.Section, Nirman Bhavan, New Delhi.
... Respondents in both WPs

Prayer in W.P.34766/2003: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari for the records of the 3rd respondent ending with Final Order No.762/2003 dated 6.8.2003 confirming the order of the first respondent, Commissioner of Customs, Chennai Order No.5/2002 dated 11.01.2002 and quash the same.

Prayer in W.P.34767/2003: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari for the records of the fourth respondent ending with Order No.C.18018/41/2001-MG dated 20.12.2002 cancelling the Customs Duty Exemption Certificate as withdrawn as cancelled and quash the same.

For Petitioner in both WPs: Mr.S.Dayaleeshwaran
For Respondents in both Wps : Mr.A.P.Srinivas
Senior Standing Counsel - for RR 1 to 3

Mr.S.Navaneethakrishnan - for R4

O R D E R

(Order of the Court was made by DR.VINEET KOTHARI, J.)

Learned counsel for the petitioner submitted that the petitioner M/s.Coastal Diagnostic Services may be permitted to approach the competent authority of the respondent Customs Department for waiver of the penalty imposed and upheld by the learned Tribunal by the impugned order dated 06.08.2003 under Section 112(a) of the Act to the extent of Rs.5,00,000/-.

2. The Assessee was imposed with the penalty, as the Assessee failed to satisfy the conditions of the relevant Notification No.64/88/Cus dated 01.03.1988, requiring the Assessee to provide free services to out-door patients as required in the Notification, and as the Assessee has already paid the customs duty in question, they now seek waiver of the penalty in question.

3. In these circumstances, we dispose of the writ petitions with a liberty to the petitioner Assessee to approach the competent authority for waiver of the penalty imposed on the Assessee. The concerned authority may consider the Assessee's case fairly and objectively in accordance with law. With these observations, the writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KST

To

1.The Commissioner of Customs (Sea Port), Customs House,
Rajaji Salai, Chennai 600 001.

2.The Asst.Commissioner of Customs (Group V-B), Customs House,
Rajaji Salai, Chennai-1.

3.The Customs Excise and Service Tax Appellate Tribunal, South Zonal Bench
Sastri Bhawan Annexe, Haddows Road, Chennai-6.

4 .The Deputy Director General (M),The Director General of Health Services
M.G.Section, Nirman Bhavan, New Delhi.

+1cc to Mr.A.P.Srinivas, Advocate sr.7293
+2cc to Mr.S.Dayaleeshwaran, Advocate sr.7787

W.P.Nos.34766 & 34767 of 2003

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nr 03/03/2020