

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.02.2020
CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH
Writ Petition No.4192 of 2020

M/s.Davinci Leather Pvt. Ltd,
Represented by its Director,
Mr.I.S.Pradeep, No.D-9/1,
M.M.Nagar Industrial Estate,
Maraimalai Nagar, Kanchipuram District,
Tamil nadu - 603 209.

... Petitioner

Vs

1.The Commissioner of Customs,
Chennai IV Commissionerate, Custom House,
60 Rajaji Salai, Chennai - 600 001.

2.The Assistant Commissioner of customs (EDC),
Chennai IV Commissionerate, Custom House,
60 Rajaji Salai, Chennai - 600 001.

..... Respondents

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 letter dated 18.11.2019 in F.No.S.Misc.713/2019-EDC-NOC passed by the 2nd respondent and quash the same and further direct the 2nd respondent to amend the shipping bill no.7258810 dated 30.08.2019 as sought for in the petitioner's application dated 20.09.2019 and issue No Objection Certificate to enable the petitioner to claim the MEIS benefit.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.Rajnish Pathiyil,

Central Government Standing Counsel

ORDER

Mr.Rajnish Pathiyil, learned Central Government Standing Counsel accepts notice for the respondents.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. By consent expressed by both learned counsel, the writ petition is disposed even at the stage of admission.

4. The petitioner, engaged in the export of leather shoes, had filed a shipping bill claiming duty drawback. The export transaction, the petitioner states, was also entitled for benefit under the Merchandise Exports from India Scheme (MEIS) notified under the Foreign Trade Policy. However, at the time of filling of the shipping bill, the petitioner had inadvertently omitted to select 'YES' as an option for availing the MEIS benefit, on the online platform.

5. The entitlement to MEIS or otherwise is a matter to be examined by the Director General of Foreign Trade (DGFT) on an application made in this behalf by the petitioner. The DGFT, when approached, advised the petitioner to have the shipping bills amended by the Customs Authorities.

6. An application had thus come to be filed by the petitioner setting out the sequence of events as above and seeking amendment of the Bill containing the error. Upon consideration of the request made, the second respondent rejected the same by order dated 18.11.2019, as against which the present Writ Petition is filed.

7. This very issue as to whether the inadvertent error of not claiming benefit under the MEIS was fatal to the claim itself has come to be considered by learned single Judges of this Court in *Pasha International V. Commissioner of Customs, Tuticorin* (2019 (365) ELT 669) and *Global Calcium Pvt. Ltd. V. Asst. Commissioner* (order dated 10.06.2019 in W.P.No.3321 of 2019) in favour of the petitioner.

8. I am also of the view that the error in not stating 'YES' to availment of the Scheme, such error, admittedly being inadvertent and Mr.Rajinish Pathiyil fairly does not dispute this, should not stand in the way of the consideration of entitlement on merits. As far as entitlement itself is concerned, I have already observed that the benefit of the Scheme would be available to the petitioner conditional upon verification and acceptance of such claim by the DGFT.

9. In the light of the discussion as above, the impugned order rejecting the request for amendment is quashed and a mandamus issued to the second respondent to amend the shipping as sought for, by the petitioner.

10. The Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Customs,
Chennai IV Commissionerate, Custom House,
60 Rajaji Salai, Chennai - 600 001.

2.The Assistant Commissioner of customs (EDC),
Chennai IV Commissionerate, Custom House,
60 Rajaji Salai, Chennai - 600 001.

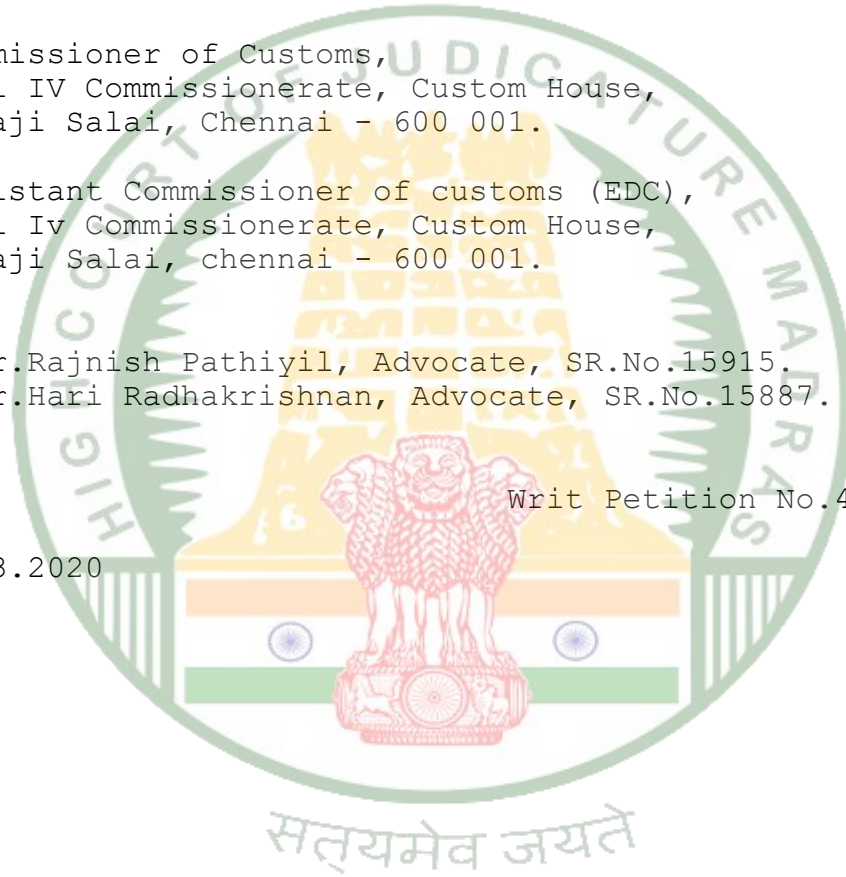
+1cc to Mr.Rajnish Pathiyil, Advocate, SR.No.15915.

+1cc to Mr.Hari Radhakrishnan, Advocate, SR.No.15887.

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RSV (CO)

CSR: 17.03.2020



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