IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1792 of 2014

M/s. Tractors and Farm Equipment Limited,
Pottipatti Plaza, No. 35, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034
Rep. by its General Manager (Indirect Taxes)
T.Amarnath ... Petitioner

-vs-

The Revisionary Authority and Joint Secretary
to the Government of India,
Ministry of Finance Department of Revenue,
14, Hudco Vishala Building, B Wing 6th Floor,
Bhikaji Cama Place,
New Delhi - 110 066. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records connected with Order No. 84/2013-Cus dated 08.03.2013 and the consequent corrigendum issued to the said order dated 08.11.2013 by the Respondent herein, and to quash the same, insofar as it has rejected the claim of customs portion of the drawback of the Petitioner.

For Petitioner : Mr. N.Viswanathan

For Respondent : Mr. A.P.Srinivas
Standing Counsel

O R D E R
(through video conference)

Heard Mr. N.Viswanathan, Learned Counsel for the Petitioner and Mr. A.P. Srinivas, Learned Standing Counsel appearing for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order No. 84/2013-Cus dated 08.03.2013 passed by the Respondent rejecting the revision application filed by the Petitioner under Section 129-DD of the Customs Act, 1962, read with the corrigendum dated 08.11.2013 made to that order.

3. The grievance sought to be ventilated by the Petitioner is that the representatives of the Petitioner and its Counsel had appeared before the First Respondent during the personal hearing and made various submissions with supporting materials, but even without mentioning the representations or referring to their contentions, the impugned order has been passed on 08.03.2013 rejecting the revision application. It is further contended that an application had been made on 24.04.2013 with the request to consider the submissions made by the Petitioner with the supporting materials that had been produced. However, the Respondent by a further order dated 08.11.2013 issued a corrigendum to the following effect:-

> "The para 5 of Government of India Revision Order No. 84/2013-Cus dated 08.03.2013 to record of personal hearing held 14.12.2012 at Chennai could not be mentioned inadvertently due typographical error. Therefore, following lines may be treated as added at the end of said para:-
>
> Personal hearing held on 14.12.2012 at Chennai was attended by Shri N. Viswanathan, Shri S. JanakiRaman, and Shri S. Baskaran, advocates on behalf of applicant who mainly reiterated grounds of revision application and relied upon Government of India Order No. 540-542/12-Cx dated 07-05-2012 in case of M/s. Mars International."

4. It is submitted by the Learned Counsel for the Petitioner that despite attending the personal hearing and making submissions, the Respondent has not considered the same, which vitiates the impugned order. There is substantial force in the aforesaid submissions made by the Learned Counsel for the Petitioner, which is borne out from the materials placed on record before this Court. It is beyond any pale of doubt that an opportunity of personal hearing has to be afforded to enable an affected person to put-forth his contentions so that the deciding authority would be able to effectively appreciate the same and arrive at the conclusion in a meaningful manner. The contentions raised have not been specifically addressed which is in violation of the principles of natural justice. The decision making process followed by the Respondent reflects that while passing the impugned order entailing adverse consequences to the Petitioner, such exercise has not been carried out in the present case. In that view of the matter, the impugned order dated 08.03.2013, is quashed and the matter is remitted to the Respondent for fresh consideration.

5. The Respondent shall afford full opportunity of hearing, duly consider each of the contentions raised by the Petitioner with particular reference to the written submissions and the contents of the application made on 24.04.2013 for recall of the order and deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate decision taken by 31.03.2021 under written

acknowledgment. Though obvious, it is made clear that no opinion has been expressed by this Court on the correctness or otherwise on the merits of the controversy involved in the matter.

6. In the upshot, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

Maya/kv

To

The Revisionary Authority and Joint Secretary
to the Government of India,
Ministry of Finance Department of Revenue,
14, Hudco Vishala Building, B Wing 6th Floor,
Bhikaji Cama Place,
New Delhi - 110 066.

+1cc to Mr.A.P.Srinivas, Advocate SR.No.33352

W.P. No. 1792 of 2014

MTI(CO)
GMY(04/11/2020)