



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.16464 OF 2006

AND

W.M.P.NOS.15943 & 15944 OF 2006

M/s.Arogya Scan and Research Centre
Pvt.Ltd. Post Box No.803, West Fort,
Thrissur 680 004, Represented by its
Managing Director K.M.Mohandass.

...Petitioner

Vs

1.The Custom, Excise and Service Tax
Appellate Tribunal, South Zonal Bench,
1st Floor, Sasthri Bhawan Annexe, Haddows
Road, Chennai - 600 006.

2.The Commissioner of Customs (Appeals)
Custom House, 60, Rajaji Salai,
Chennai - 600 001.

3.The Joint Commissioner of Customs -
Gr.5B&C, Custom House,
60, Rajaji Salai, Chennai - 600 001.

4.The Deputy Commissioner of Customs-
Gr.5B&C, Custom House,
60, Rajaji Salai, Chennai - 600 001.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, forbearing the fourth respondent from initiating any action under Section 142 of the Customs Act, 1962 and coercing the petitioner to pay the differential duty of Rs.3,78,311/- fine of Rs.1,00,000/- and penalty of Rs.50,000/- pursuant to communication dated 12.04.2006 in F.No.S23/142/93-GR-5B(pt).

For Petitioner : Mr.S.Baskaran
For M/s.Sivanandh & Associates

For Respondents : Mr.V.Sundareswaran
Senior Panel counsel



O R D E R

The relief sought for in the present writ petition is to forbear the fourth respondent from initiating any action under Section 142 of the Customs Act, 1962 and coercing the petitioner to pay the differential duty of Rs.3,78,311/- fine of Rs.1,00,000/- and penalty of Rs.50,000/- pursuant to communication dated 12.04.2006 in F.No.S23/142/93-GR-5B(pt).

2. The relief sought for is to forbear the respondent from initiating any action under Section 142 of the Customs Act. Though the petitioner has referred the proceedings dated 12.04.2006, none of the proceedings issued are under challenge in the present writ petition. The said proceedings would reveal that the petitioner was requested to comply with the order-in-original dated 13.07.2004 and pay the differential duties and the fine.

3. Under these circumstances, this Court is of an opinion that the order-in-original dated 13.07.2004 reached finality and the proceedings dated 12.04.2006, the respondents asked the petitioner to comply with the order-in-original dated 13.07.2004.

4. Section 142 of the Customs Act is for Recovery of Sums due to the Government. The recovery is to be made by following the procedures as contemplated. Therefore, the general relief as such sought for in the present writ petition to forbear the fourth respondent from initiating any action under Section 142 of the Customs Act, 1962 cannot be granted by this Court. This apart, the recovery actions are initiated based on the original orders passed by the competent authority in the year 2004 and this being the factum, the petitioner has not established any right for the purpose of considering the relief as such sought for in the present writ petition.

5. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

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W.P.No.16464 of 2006

PCH(CO)
PM(09/09/2021)