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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.10116 of 2019

(Through Video Conferencing)

M/s.SRK Overseas,
Represented by its Proprietor, Mr.Manoj Mohan,
4732, V21, Dayanand Road,
First Floor, Daryaganj,
Delhi - 110 002. ...Petitioner

Vs

- 1.The Union of India,
Represented by the Director General of Foreign Trade,
Udyog Bhawan, H-Wing, Gate No.2,
Maulana Azad Road, New Delhi - 110 001.
- 2.The Union of India,
Represented by the Joint Secretary, The Department of
Electronics & Information Technology, 6,C.G.O. Complex,
New Delhi - 110 003.
- 3.The Commissioner of Customs-II,
No.60, Rajaji Salai,
Customs House, Chennai - 600 001.
- 4.The Additional Commissioner of Customs-II(Gr5),
No.60, Rajaji Salai,
Customs House, Chennai - 600 001.
- 5.The Deputy Commissioner of Customs-II (Gr5),
No.60, Rajaji Salai,
Customs House, Chennai - 600 001. ...Respondents

Prayer Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration (a) declaring the action of respondents 3 to 5 in not allowing customs clearance of the impugned goods of the petitioner on the pretext of application of Electronics and IT Goods (Requirement for Compulsory Registration) Order (CRO), 2012 and DGFT authorization to the goods imported by the petitioners, as illegal and arbitrary and permitting customs clearance of the impugned goods in respect of the Bill of Entry No.7276435 dated 19.07.2018 on payment of applicable duties on the value enhanced by the



Chartered Engineer and consequently directing the respondents 3 to 5 not to insist on the production of the Import authorization from DGFT and the registration certificate with BIS.

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For Petitioner : M/s.S.Sankaranarayanan
For Respondents : Mr.A.P.Srinivas
3 to 5 Senior Standing Counsel

ORDER

This writ petition has partly become infructuous, as pending. The respondent had issued a show cause notice dated 20.06.2019 vide Order in Original No.78920 of 2020 which is also culminated in order dated 06.01.2021 vide order in Original No.78920 of 2020 passed by the fourth respondent Additional Commissioner of Customs-II(Gr5), Chennai.

2. It appears that the petitioner has also filed an appeal before the Commissioner of Customs (Appeals) Chennai in Customs Application No.40077 of 2021 and Custom Appeal No.40098 of 2021.

3. The learned counsel for the petitioner submits that the issue is now covered by plethora of decisions both of the Madras High Court, the Delhi High Court and that of the Hon'ble Supreme Court.

4. In this connection, reliance has been placed on the following decisions of the court as detailed below:

"(i) The Commissioner of Customs and Ors vs. M/s City Office Equipment, Chennai passed in W.P.No.1215 of 2019 dated 25.04.2019.

(ii) The Commissioner of Customs (Gr.5) and Ors vs. M/s. Best Mega International, New Delhi passed in W.P.No.8574 of 2020 dated 25.01.2021.

(iii) The Commissioner of Customs (Gr.5) and Ors vs. M/s. Best Mega International New Delhi passed in W.A.No.642 of 2021 dated 04.03.2021

(iv) The Commissioner of Customs (Gr.5) Chennai II & Ors vs. M/s. Delhi Photocopiers passed in W.A.No.690/2021 dated 04.03.2021."

5. The learned counsel for the petitioner further submits that the goods were imported as early as 2018 and are languishing under the custom control and are getting de-valued and therefore the petitioner is suffering loss.

6. The learned Senior Standing Counsel for the respondents submits that the petitioner has an alternate



remedy which the petitioner has also approached and therefore the petitioner should work out the remedy before the alternative forum.

7. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent. I have perused the decisions cited by the learned counsel for the petitioner and the submission of the learned Senior Standing Counsel.

8. Since the petitioner has already filed a statutory appeal against the order which came to be passed during the pendency of the writ petition vide Order in Original No.78920 of 2020 dated 06.01.2021 question of passing orders on the merits does not arise except to request the Commissioner of Customs (Appeals) to dispose the petitioner's appeal within a period of eight weeks from the date of receipt of a copy of this order.

9. The petitioner is at liberty to cite all the decisions which have been cited before this Court before the learned Commissioner Appeals. This writ petition stands disposed with the above observations. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rgm/nst

To

- 1.The Director General of Foreign Trade,
The Union of India,
Udyog Bhawan, H-Wing, Gate No.2,
Maulana Azad Road, New Delhi - 110 001.
- 2.The Joint Secretary,
The Union of India,
The Department of Electronics &
Information Technology, 6,C.G.O. Complex,
New Delhi - 110 003.
- 3.The Commissioner of Customs-II,
No.60, Rajaji Salai, Customs House, Chennai - 600 001.
- 4.The Additional Commissioner of Customs-II(Gr5),
No.60, Rajaji Salai,
Customs House, Chennai - 600 001.



5.The Deputy Commissioner of Customs-II (Gr5),
No.60, Rajaji Salai,
Customs House, Chennai - 600 001.

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+1cc to Mr.A.P.Srinivas, Senior Standing Counsel, (Customs,
Central Excise & Service Tax) SR. No.65480

W.P.No.10116 of 2019

CA (CO)
PR (29/12/2021)