IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NOS.14979 & 14988 OF 2021
AND
W.M.P.NOS.15863 & 15867 OF 2021

M/s. Poly Pipes India Private Limited,
Represented by its Authorized Signatory,
"Lakshmi Shankars"
No.95, Dr.Alagappa Road,
Purasawalkam,
Chennai – 600 084. ... Petitioner in both W.Ps

.Vs.

The Deputy Commissioner of Customs,
Group 2G,
Custom House,
Chennai - 600 001. ... Respondent in both W.Ps.

Prayer in W.P.No.14979 of 2021:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the assessment of Bill of Entry No.9096703 dated 08.10.2020 and quash the same and consequently direct the Respondent to re-assess the above Bill of Entry No.9096703 dated 08.10.2020 extending the benefit of Notification No.046/2011 Sl.No.458(I), at 5% of concessional rate of duty of customs in respect of the said Bill of Entry No.9096703 dated 08.10.2020.

Prayer in W.P.No.14988 of 2021:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the assessment of Bill of Entry No.9154597 dated 13.10.2020 and quash the same and consequently direct the Respondent to re-assess the above Bill of Entry No.9154597 dated 13.10.2020 extending the benefit of Notification No.046/2011 Sl.No.458(I), at 5% of concessional rate of duty of customs in respect of the said Bill of Entry No.9154597 dated 13.10.2020.

For Petitioner : Mr.T.Ramesh

For Respondent : Mrs. K.G.Usha Rani,
Junior Standing Counsel

COMMON ORDER
(through video conferencing)

The petitioner has filed these writ petitions for the issuance of a writ of certiorarified mandamus to call for the records relating to the assessment of Bills of Entries Nos.9096703 & 9154597 dated 08.10.2020 & 13.10.2020 and quash the same and consequently, direct the Respondent to re-assess the above Bills of Entries Nos.9096703 & 9154597 dated 08.10.2020 & 13.10.2020 extending the benefit of Notification No.046/2011 Sl.No.458(1), at 5% of concessional rate of duty of customs in respect of the said Bills of Entries No.9096703 & 9154597 dated 08.10.2020 & 13.10.2020.

2. It is the case of the petitioner that the petitioner had imported a consignment of Polyvinyl Chloride Suspension Resin (S-PVC) Grade PM-66R from a supplier from Vietnam namely AGC Chemicals Vietnam Co. Ltd., Vietnam who had raised invoice dated 24.09.2021 on the petitioner. The petitioner filed two Bills of Entry(BoE). It is the case of the petitioner that the Respondent has partially allowed the benefit of exemption under Customs Notification No.46/2011-Customs dated 01.06.2011 as amended by the Customs Notification No.82/2018-Customs dated 31.12.2018 to the goods covered by Bill of Entry No.9092296 dated 07.10.2020. However, for the balance consignment covered by the Bill of Entry No. 9096703 dated 08.10.2020, the benefit of the aforesaid Customs Notification has not been extended presumably on account of the fact that the petitioner has filed two Bills of Entries in respect of the same shipment imported by the petitioner.

3. It is the further case of the petitioner that since the goods were urgently required, the petitioner has also paid customs duty “under protest” and had thereafter requested the respondent to pass orders under Section 17(5) of the Customs Act, 1962, so that the petitioner can have this matter be adjudicated before the Appellate Commissioner.

4. The learned Junior Standing Counsel appearing on behalf of the respondent seeks further time for filing counter-affidavit. She submits that the writ petition is not maintainable.

5. It is noticed that already an order was passed on 20.07.2021 by this Court by giving liberty to the respondent to pass a re-assessment order pending those writ petitions after hearing the petitioner by the next date of hearing. Though time was given to file a counter by 24.08.2021, till date neither a counter has been filed nor an order has been passed in terms of order dated 20.07.2021. There is no print in keeping these writ petitions pending any longer.

6. Considering the arguments advanced by the learned counsel for the petitioner and the learned Junior Standing Counsel for the respondent and an order dated 20.07.2021, this writ petition is disposed without expressing any opinion on merits by directing the respondent to consider and pass appropriate orders in terms of Section 17(5) of the Customs Act, 1962 after affording sufficient opportunity to the petitioner within a period of thirty days from the date of receipt of a copy of this order. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rgm/Maya

To

The Deputy Commissioner of Customs,
Group 2G,
Custom House,
Chennai - 600 001.

+1cc to Mrs.K.G.Usha Rani,, Advocate, S.R.No.61726
+2ccs to Mr.T.Ramesh, Advocate, S.R.No.63102,63101

W.P.Nos.14979 & 14988 of 2021
and
W.M.P.Nos.15863 & 15867 of 2021

MG(CO)
PM/28/12/2021