

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.15019 of 2020
and WMP.No.18705 of 2020

M/s.Plasmold Technology,
Rep. by its Partner M.Murugesan
No.17, Sharma Nagar, Thiruneermalai Road,
Kundrathur, Chennai-600 069.

...Petitioner

Vs

- 1.The Commissioner of Customs (Imports),
Chennai-II Commissionerate,
Custom House, 60, Rajaji Salai, Chennai-600 001.
- 2.The Additional Commissioner of Customs (Gr 5-Imports),
Chennai-II Commissionerate,
Custom House, 60, Rajaji Salai, Chennai-600 001.
- 3.The Deputy Commissioner of Customs (SIIB),
Special Intelligence and Investigation Branch,
O/o The Principal Commissioner of Customs, Chennai-III,
Custom House, 60, Rajaji Salai,
Chennai-600 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records in File No.S.Misc.484/2020-GR-5, dated 07.10.2020, issued by the 3rd respondent and quash the same and direct the respondents to release the goods viz., 5 Units of Used Injection Moulding Machine with Standard Accessories from Singapore, weighing 19500 Kgs., totally imported vide Bill of Entry No.8622890, dated 28.08.2020, on payment of duty on the value appraised by the Chartered Engineer vide Certificate dated 11.09.2020, without insisting for payment of Anti-Dumping Duty.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Mrs.R.Hemalatha
Senior Standing Counsel

O R D E R

The petitioner challenges order dated Nil.10.2020 in response to application filed by the petitioner seeking direction to release goods imported vide bill of entry No.8622890 dated 28.08.2020 in terms of Section 110A of the Customs Act, 1962 ('Act').

2. The dispute on merits relates to the country of origin of the consignment. If the imports were from Singapore, there would be no component of anti-dumping duty (ADD), whereas imports from Malaysia attract the levy of ADD. It is the case of the petitioner that the country of origin of consignment is Singapore and thus the impugned order directing it to furnish a PD bond for 100% value of the goods along with fine and penalty is challenged.

3. The determination of origin of the consignment is best left to the authorities as it involves examination of documents and relevant material. The respondents are thus directed to commence proceedings for investigation, issue a show cause notice at the earliest, complete adjudication and pass an order-in-original within a period of two months from today.

4. Coming to the condition imposed for provisional release, I sustain the direction to the petitioner for furnishing of PD bond and bank guarantee covering the component of anti-dumping duty. However, the levy of fine and penalty at this stage is, in my view, pre-mature and this condition is thus dispensed with.

5. In the course of adjudication, the respondent / authorities will make a reference to the CAROTAR, 2020 (Rules of Origin under Trade Agreements (FTA/PTA/CECA/CEPA)) which, at para 7, states that the designated director of the ICD/CBIC has been designated as a Nodal Officer for taking up issues relating to issuance of place of origin and obtain a determination from the Nodal Officer in this case.

6. This writ petition is disposed in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs/rkp

To

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Custom House, 60, Rajaji Salai, Chennai-600 001.
- 2.The Additional Commissioner of Customs (Gr 5-Imports),
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- 3.The Deputy Commissioner of Customs (SIIB),
Special Intelligence and Investigation Branch,
O/o The Principal Commissioner of Customs, Chennai-III,
Custom House, 60, Rajaji Salai,
Chennai-600 001.

+1cc to M/s.R.Hemalatha, Advocate, sr no.6569

+1cc to M/s.A.K.Jayaraj, Advocate, sr no.6471

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KV (CO)
RMP (03/03/2021)



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