IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.16328 of 2020

M/s.K.I.International Limited
represented by its Director
Mr.Vinod Kothari,
No.664, T.H. Road,
Tondiarpet, Chennai - 600 081. …Petitioner

Vs.

1. The Commissioner of Customs (Appeal-II),
Office of the Commissioner of Customs (Appeals - II)
No.60, Rajaji Salai, Customs House,
Chennai - 600 001.

2. The Commissioner of Customs
Chennai IV Commissionerate,
Customs House, 60, Rajaji Salai,
Chennai - 600 001.

3. The Assistant Commissioner of Customs (EDC),
Chennai IV Commissionerate,
Customs House, 60, Rajaji Salai,
Chennai - 600 001. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings in Order in original Seaport C.Cus.II No.914/2020 dated 28.08.2020 (Communicated on 07.09.2020) passed by the 1st respondent and quash the same and further direct the 2nd respondent to amend the shipping bills as sought for in the petitioner's application dated 04.10.2019 and issue No Objection Certificate to enable the petitioner to claim the MEIS benefit.

For Petitioner : Mr.M.A.Mudimannan

For Respondents : Mr.V.Sundareswaran,
Senior Panel Counsel

ORDER

Heard Mr.M.A.Mudimannan, learned counsel for the petitioner and Mr.V.Sundareswaran, learned Senior Panel Counsel for the respondents.

2. The petitioner's prayer in this case is misconceived. It seeks a direction for amendment of its shipping bills for the period 06.02.2017 to 02.01.2018 on the erroneous assumption that the shipping bills contain an inadvertant error that disentitled it from claiming benefit under the Merchandise Exports from India Scheme (MEIS Scheme).

3. It is an admitted position, duly supported by the shipping bills (sample bill SB No.1887033 dated 29.12.2017 placed at page 1 of the document compilation filed in support of the Writ Petition), that the intention of the petitioner/exporter to claim benefit under the MEIS Scheme is set out very clearly in the shipping bills itself. The rejection of the claim, on the ground that the word 'No' is reflected in the documents and as such, the petitioner is not entitled to the benefit, is thus erroneous.

4. What has transpired is that while the shipping bills reflect the intention correctly, while uploading the bills on the Electronic Data Interface of the Customs Department (EDI), the field requiring the word 'yes or no' for claim of MEIS benefit has been erroneously filled as 'No' instead of 'yes'. Compared as against the intention of the petitioner expressed in the shipping bills, this is clearly a technical inadvertant error.

5. Reliance on Section 149 of the Customs Act, 1962 (in short 'Act') dealing with 'Amendment of documents' is unnecessary in this case, since the shipping bills require no amendment and clearly reflect the intention of the petitioner to claim the benefit. In the petitioner's representation dated 04.10.2019 too, the petitioner reiterates its intention to claim reward under the MEIS Scheme, but goes on thereafter to refer to provisions of Section 149 of the Act.

6. In view of the fact that the petitioner's intention to claim MEIS benefit is clear from the shipping bills and the mistake has only happened while uploading the bills in the EDI, the error is hyper-technical, inadvertent and a human error and should not stand in the way of the petitioner being granted the substantial benefit which it has opted for, from inception.

7. Learned counsel for the respondents points out that though the last of the shipping bills is dated 02.01.2018, the representation of the petitioner for grant of MEIS is dated 04.10.2019, one year and 9 months thereafter. According to him, the claim is thus substantially belated. However, as rightly pointed out by the learned counsel for the petitioner, this does not appear to have been a ground on which the claim of the petitioner has been rejected by either the original or the appellate authority.

8. It appears that the petitioner has been inspired by an order passed by this Court in a Writ Petition granting benefit in similar situations. It would be too harsh to state in such circumstances, specifically in the light of the facts as noticed by me above in paragraph Nos.2 to 5 that the petitioner should be denied the benefit merely on the ground of delay. This argument is rejected.

9. In the light of the aforesaid discussion, the impugned order is set aside and the Writ Petition allowed. The petitioner is entitled to the benefit under the MEIS Scheme and the respondents are directed to grant consequential benefits to the petitioner within a period of eight (8) weeks from today. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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Office of the Commissioner of Customs (Appeals - II)
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2. The Commissioner of Customs
Chennai IV Commissionerate,
Customs House, 60, Rajaji Salai,
Chennai - 600 001.

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Chennai IV Commissionerate,
Customs House, 60, Rajaji Salai,
Chennai – 600 001.

+1cc to Mr.V.Sundareswaran, Advocate SR.29123
+1cc to Mr.K.Jayachandran, Advocate Sr.29523

W.P. No.16328 of 2020

pl[co]
srg 22/07/2021