IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.24705 & 24706 of 2021
&
W.M.P.No.25998 of 2021
(Through Video Conferencing)

M/s. Rajan Steel Traders,
Represented by its Proprietor
Mr. K.S. Kothandaraman
No. 0/10/59, Manali Express Road,
Kamaraj Nagar, Ernavoor,
Chennai- 600 057. ...Petitioner in both WPs

Vs.

1. Additional Commissioner of Customs (SIIB),
Chennai-III Commissionerate,
60, Rajaji Salai, Customs House,
Chennai - 600 001.

2. Deputy Commissioner of Customs(SIIB),
Chennai-III Commissionerate,
60, Rajaji Salai, Customs House,
Chennai - 600 001. ...Respondents in both WPs

Prayer in W.P.No.24705 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records pertaining to the impugned show cause notice No. 64/2021-SIIB dated 05.10.2021, issued by the the 1st respondent F.No.ENQ.74/2018-SIIB.

Prayer in W.P.No.24706 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to either refund an amount of Rs.35,61,455/- collected from the petitioner in the guise of anti - dumping duty or alternatively adjudicate the issue pertaining to the leviability of anti dumping duty on the goods imported vide Ex-bond Bill of Entry NO. 6636130 dated 07.09.2016.

For Petitioner : Mr. Hari Radhakrishnan
(in both Wps)

For Respondents : Mr.G.Meganathan
(in both Wps)

COMMON ORDER

The petitioner had filed an Ex-Bond Bill of Entry No.6636130 dated 07.09.2016. Long after the clearance of the goods, a summon was issued to the petitioner on 20.04.2018 pursuant to which the petitioner paid the anti-dumping duty under bona-fide belief that the imported goods attracted anti-dumping duty in terms of Notification No.44/2016-Cus. dated 08.08.2016 on 28.05.2018. Thereafter, the petitioner has filed a refund claim on 17.09.2021 pursuant to which the impugned show cause notice was issued.

2. Since the issue as to whether the petitioner was liable to pay anti-dumping duty has been questioned by the petitioner in respect of which no proceeding has been initiated, this writ petition is ordered by directing the respondent to pass appropriate order in the impugned show cause proceeding dated 05.10.2021 by adjudicating the issue relating to leviability of anti-dumping duty under notification No.44/2016-Cus dated 08.08.2016 on the imports made by the petitioner.

3. If desired, the respondent may issue a corrigendum to the said show cause notice to show cause as to why the petitioner should not be held liable to pay the anti-dumping duty under notification No.44/2016-Cus dated 08.08.2016 and to the show cause as to why the amount paid by the petitioner on 28.05.2018 should not be appropriated and why the refund claim filed by the petitioner should not be rejected on the ground of limitation as unjust enrichment.

4. These writ petitions are thus disposed of by directing the respondents to adjudicate the show cause notice dated 05.10.2021 issued to the petitioner under Section 124 of the Customs Act, 1962. The respondents to also consider the case of the petitioner as to whether the petitioner was required to pay anti-dumping duty under notification No.44/2016-Cus.

5. Orders shall be passed by the respondents within 3 months from the date of receipt of copy of this order. Petitioner is given liberty to file additional reply and shall also be rendered.

These writ petitions stands disposed of with the above observations. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Commissioner of Customs(SIIB),
   Chennai-III Commissionerate,
   60, Rajaji Salai, Customs House,
   Chennai - 600 001.

2. The Deputy Commissioner of Customs(SIIB),
   Chennai-III Commissionerate,
   60, Rajaji Salai, Customs House,
   Chennai - 600 001.

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&
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GPL(CO)
RGA(15/12/2021)