

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. NO.23562 OF 2019

&

WMP.NOS.23377, 23375 & 23380 OF 2019

Gagan Goyal

Proprietor of M/s.HLG Trading Space E

Third Floor Surya Kiran Building 92

The Mall Ludhiana 141 001

....Petitioner

Vs.

The Additional Commissioner

Customs, Group 4, Chennai II

Commissionerate Custom House No. 60

Rajaji Salai, Chennai 1

....Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified mandamus, calling for the records of the respondent and to quash order in original No. 69865/ 2019 dated 1.7.2019 issued from F. No. S59/ 29/ 2018- Gr.4 and direct the respondent to permit cross examination of the persons referred to in their reply dated 6.1.2019 and further direct the respondent to cause fresh retest of the goods imported and pass fresh orders in accordance with Law and restrain the office of the respondent from initiating any recovery proceedings pursuant to the said order in original.

For Petitioner : Mr.B.Satish Sundar

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

The petitioner prays for a certiorarified mandamus quashing order-in-original dated 01.07.2019 and directing the respondent to cross-examine all persons referred to in reply dated 06.01.2019 and a further direction to the respondent to cause fresh re-test of the imports.

2. This Court, on 16.09.2020 had directed the re-test of goods even pending writ petition. A report dated 06.01.2021 has been filed by the Joint Director, (NFSG), Central Revenues Control Laboratory, New Delhi to the effect that the aluminium

foil imported is of thickness of 5.83 and 5.84 microns, adverse to the interests of the petitioner.

3. The petitioner, at this juncture would request that it be permitted to file a statutory appeal and that the Indian Standard specifications for Aluminium and Aluminium Alloy Bare Foil for Food Packaging, specifically para 12, be taken into account by the appellate authority in determining the thickness of the imported product. This submission is made for the first time in the writ petition and has not been made before original authority.

4. The impugned order is dated 01.07.2019 and this writ petition has been filed on 08.08.2019, within the period of statutory limitation. Thus it is permitted to approach the first Appellate Authority by way of statutory appeal. Such appeal, if filed within a period of four weeks from today along with compliance of all statutory conditions, shall be taken on file by the authority without reference to limitation and heard on merits and in accordance with law. The petitioner is permitted to raise all contentions before the Appellate Authority in respect of its appeal including reliance on Indian Standard specifications.

5. This writ petition is dismissed, granting liberty as above. Connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Additional Commissioner
Customs Group 4 Chennai II
Commissionerate Custom House No. 60
Rajaji Salai Chennai 1

+1cc to Mr.B.Sathish Sundar, Advocate, S.R.No.13587
+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.13571

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PMK(CO)
CS/01/04/2021