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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP.NOS.27606 & 27608 OF 2021

AND

WMP.NO.29129 OF 2021

[VIDEO CONFERENCING]

W.P.No.27606 of 2021

M/s.Makwuds India Pvt Ltd
Represented by its Managing Director
Mr.Sinju Abdul Kharim
F-8, SIPCOT Industrial Post
Sriperumbudur, Kancheepuram 602 106.

....Petitioner

-Vs-

1. The Principal Commissioner of Customs
Chennai III Commissionerate
Custom House, 60 Rajaji Salai
Chennai - 600 001.
2. The Assistant Commissioner of Customs (Bonds-Sea)
Preventive Commissionerate
Custom House, 60 Rajaji Salai
Chennai - 600 001.
3. The Confiscated Goods Officer (CGO)
Disposal Unit
Custom House, 60 Rajaji Salai
Chennai - 600 001.

...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and call for the records pertaining to the impugned taken over notice November 2021 issued in F.No.S.Misc.278/2019 - Bonds (Sea)-Pt II by the 2nd Respondent and quash the same.



W.P.No.27608 of 2021

M/s.Makwuds India Pvt Ltd
Represented by its Managing Director
Mr.Sinju Abdul Kharim
F-8, SIPCOT Industrial Post
Sriperumbudur, Kancheepuram 602 106.

...Petitioner

-Vs-

1. The Principal Commissioner of Customs
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Custom House, 60 Rajaji Salai
Chennai - 600 001.
3. The Confiscated Goods Officer (CGO)
Disposal Unit
Custom House, 60 Rajaji Salai
Chennai - 600 001.

...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus and direct the 1st Respondent to hear the petitioner and dispose of the application dated 22.09.2021 filed in terms of proviso to Section 61(1) of the Customs Act, 1962 seeking extension of the warehousing period.

For Petitioner	
in both WPs	: Mr.Hari Radhakrishnan
For Respondents	
in both WPs	: Mr.A.P.Srinivas, Senior Standing Counsel

COMMON ORDER

W.P.No.27606 of 2021 has been filed to quash the impugned Taken Over notice issued by the second respondent while W.P.No.27608 of 2021 has been filed to direct the 1st Respondent to hear the petitioner and dispose of the application dated



22.09.2021 filed in terms of proviso to Section 61(1) of the Customs Act, 1962.

2.It is the case of the petitioner that the petitioner had imported Goods during June 2019 and that the period of warehousing had expired during June 2020 when the country was under lockdown due to Covid pandemic. It is submitted that the respondent had issued notice to the petitioner under Section 72 (1) of the Customs Act, 1962 during January 2021 and that the petitioner by representation dated 22.09.2021 had requested the first respondent to extend the period of warehousing in terms of proviso to Section 61 of the Customs Act, 1962.

3.Opposing the prayer, Mr.A.P.Srinivas, learned Senior Standing Counsel appearing on behalf of the respondent would submit that the notice under Section 72(1) of the Customs Act, 1962 was issued as early as 29.01.2021 which is after the period of warehousing under Section 60 of the Customs Act, 1962 had expired. It is submitted that the application for extension of warehousing under Section 61 of the Act has been made long after the notice under Section 72(1) of the Customs Act, 1962 was issued on 22.09.2021. Therefore, it is submitted that there is no merits.

4.I have heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

5.The petitioner may have a genuine case for extension of time, considering the fact that the petitioner has also applied for setting up of private warehousing facility under Section 58 of the Customs Act, 1962. There are contributing factors on account of two lockdowns imposed in Tamil Nadu due to outbreak of Covid 19 Pandemic.

6.Considering the same, I am inclined to dispose of the Writ Petitions without expressing any opinion on merits by directing the first respondent to pass appropriate orders on the representation dated 22.09.2021 of the petitioner filed under Section 61 of the Customs Act, 1962. This exercise may be carried out by the first respondent within a period of 15 days from the date of receipt of a copy of this order. Pending such exercise, the proposed action under the impugned notice shall be kept in abeyance.



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7. These Writ Petitions stands disposed of with the above observations. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pgp

To

1. The Principal Commissioner of Customs
Chennai III Commissionerate
Custom House, 60 Rajaji Salai
Chennai - 600 001.
2. The Assistant Commissioner of Customs (Bonds-Sea)
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Custom House, 60 Rajaji Salai
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3. The Confiscated Goods Officer (CGO)
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Custom House, 60 Rajaji Salai
Chennai - 600 001.

+lcc to Mr.A.P.Srinivas, Advocate, S.R.No.69199

W.P.Nos.27606 & 27608 of 2021

EV(CO)
PM/11/01/2022