BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **07.09.2021**
CORAM:
THE HONOURABLE MR.JUSTICE M.DURAISWAMY
AND
THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR
W.A(MD)NO.1690 OF 2021
and
C.M.P(MD)No.7243 of 2021

1.The Commissioner of Customs,
Customs House,
New Harbour Estate,
Tuticorin-628 004.

2.The Assistant Commissioner of Customs,
(Special Intelligence and Investigation),
Branch -SIIB, Office of the Commissioner of Customs,
Customs House,
New Harbour Estate,
Tuticorin – 628 004.

3.The Assistant Commissioner of Customs,
(Group-2),Office of the Commissioner of Customs,
Customs House,
New Harbour Estate,
Tuticorin – 628 004. :Appellant/Respondents 1 to 3

.vs.

M/s.Yamuna Impex,
a proprietory firm, represented by its,
Authorized Signatory Shri T.Rajasekaran,
2/1032/2, Kanna Nagar,
Narayanapuram Road, Sivakasi,
Tamil Nadu – 626 189. :Respondents/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.8238 of 2021, dated 23.06.2021.

Prayer in WP(MD). 8238/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the respondents to cause release of the goods imported under Bill of Entry No.3192548 dated 18-03-2021 namely coated paper sheets without any further delay or procrastination on their part and pass such or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellants : Mr.B.Vijay Karthikeyan

For Respondent : Mr.B.Satish Sundar

JUDGMENT
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[Judgment of the Court was made by **M.DURAISWAMY,J.**]

Challenging the order passed in W.P(MD)No.8238 of 2021, the Revenue has filed the above Writ Appeal.

2.The respondent/Petitioner filed the Writ Petition to issue a Writ of Mandamus to direct the respondents to cause release of the goods imported under Bill of Entry No.3192548, dated 18.3.2021 namely ''Coated Paper Sheets'' without any further delay

3.Mr.B.Satish Sundar, learned counsel appearing for the respondent submitted that in similar circumstances, this Court, in W.A(MD)Nos.1176 and 1177 of 2021 by order, dated 21.6.2021, while partly allowing the Writ Appeals, directed the Revenue to release of imported consignment subject to the commencement of adjudication proceedings by issuing a show-cause notice which shall be not later than 60 days from the date of receipt of a copy of the order. After recording the undertaking of the respondent, the importer submitted that they will participate in the adjudication proceedings. Further, the Division Bench directed the release of goods and waived the Detention Charges. The Revenue was directed to release the subject cargo within a period of three weeks from the date of receipt of a copy of the judgment.

4.Since the order passed by the Division Bench in the Writ Appeals was not initially obeyed by the Revenue, the respondent therein filed a Contempt Petition in Cont.P(MD)No.1067 of 20121. In the counter affidavit filed by the respondent therein, they have specifically stated that the goods may be released as directed by the Division Bench in the Writ Appeals and the learned counsel would submit that they are willing to execute a bond for the value of goods and a bank guarantee towards security to an extent of 10% of the value of the goods.

5.The learned counsel appearing for the respondent/Writ Petitioner submitted that the goods may be released on the same terms.

6.Mr.B.Vijay Karthikeyan, learned Standing Counsel appearing for the appellants submitted that in the earlier case, description of the paper filed in 4810, whereas, in the case on hand, it is filed under IPC HS 4811. Hence the very same ratio cannot be applied to the present case.

7.The learned counsel appearing for the respondent submitted that since the issues are identical, the Revenue may be directed to release the goods on execution of a bond for the value of the goods and a bank guarantee/security to an extent of 10% of the value of the goods.

8.Having regard to the submissions made by the learned counsel appearing on either side, since the issue involved in both the matters are identical, we are of the considered view that the appellants/Revenue may be directed to release the goods on condition the respondent executing a bond for the value of the goods and bank guarantee to an extent of 10% of the value of the goods. Therefore, we direct the appellants to release the goods on condition the respondent executing a bond for the value of the goods and bank guarantee to an extent of 10% of the value of the goods. The respondent shall complete their part of obligation within two weeks from the date of receipt of a copy of this judgment and the appellants are directed to release the goods within two weeks thereafter. Further, the detention charges shall stand waived.

9.With these observations, the Writ Appeal stand disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

Note :

1.In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Commissioner of Customs,
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New Harbour Estate,
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(Special Intelligence and Investigation),
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(Group-2),Office of the Commissioner of Customs,
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+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-28570[F] dated 08/09/2021)

W.A(MD)NO.1690 OF 2021
and
C.M.P(MD)No.7243 of 2021
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RK (17.09.2021) 4P 5C