IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3682 of 2021
Date of decision: 17.02.2021

M/s L Comps & Impex (P) Ltd.

...Petitioner

Vs.

Union of India and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Saurabh Kapoor, Advocate,
for the petitioner.

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Ritu Bahri, J. (oral)

Petitioner is seeking quashing of the Seizure Memo dated 12.01.2021 (Annexure P-3) on the ground that it has been issued/passed against the provisions of Customs Act, 1962.

Learned counsel for the petitioner contends that the petitioner is importer and dealer dealing in the import and trading of “Food Items” and had imported various consignments of Imported “Masalas” of various kinds from foerign suppliers. The petitioner is engaged in the import and trading of “Food Items” especially “Masalas” of different flavours, falling under the chapter heading 09109100 of Custom Tariff Act, 1975 attracting Customs Duty at the rate of 30% approximately and IGST at the rate of 10%. The aforesaid goods are freely importable as per the Indian Tariff Code (ITC) HS, however, subject to certification from FSSAI. Petitioner has placed on record copies of documents (Annexure P-1) declaring the description, value & other import particulars as declared in the invoice supplied. On the basis of these documents, the petitioner made a request for opening of the Bill of Entry under Section 46 of the Customs Act, 1962, before the respondents, which was granted on 07.01.2021. The Bill of Entry No.2262323 dated 07.01.2021 was issued for clearance of the goods. Since the Bill of Entry was filed under Second Check System, the petitioner paid customs duty amounting to Rs.18,08,554/- through the online EDI portal and the goods were subject to examination by the Officers of Customs.

During the course of examination, it was opined by the Officers of Customs that the goods were mis declared in terms of classification in so far as the same were mis classified under CTH 09109100, instead the same shall fall under Customs Tariff Heading 21039040 attracting IGST at the rate of 12% instead of 5%, thus leading to shortfall of Customs Duty of Rs.4,09,516.79/-. Keeping in view this fact, the goods were seized.

Learned counsel for the petitioner has placed on record circulars dated 31.07.2001, 13.02.2012 and 14.03.2012 (Annexures P-4, P-5 and P-6). There is a procedure prescribed for clearance of the goods pursuant to the direction given by this Court in CWP-9882-2006 and copy of the procedure/instructions has been placed on record as Annexure P-7. Keeping in view these instructions, petitioner has made a details representation dated 25.01.2021 (Annexure P-10) and reminder dated 01.02.2021 (Annexure P-11), but no action has been taken thereon till date.

Notice of motion.

At this stage, Mr. Sunish Bindlish, Advocate, accepts notice on behalf of the respondents.

This petition is disposed of by giving direction to respondent No.3-Additional Commissioner of Customs to look into the representation/

reminder dated 25.01.2021/01.02.2021 (Annexures P-10 and P-11) and after affording an opportunity of hearing to the petitioner, pass a speaking order thereon in accordance with law, within a period of one week from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

17.02.2021
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No