



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.9317 of 2022

M/s.SK Enterprises

...Petitioner

Vs.

1. The Joint Commissioner of Customs (Gr.3)
Chennai II Commissionerate,
No.60, Rajaji Salai,
Custom House, Chennai-600 001.
2. The Commissioner of Customs (Gr.3)
Chennai II Commissionerate,
No.60, Rajaji Salai,
Custom House, Chennai-600 001.
3. The Commissioner of Customs (Appeals-II)
No.60, Rajaji Salai,
Custom House, Chennai-600 001.
4. The Assistant Registrar,
CESTAT, Shastri Bhavan,
Annexe Building 1st Floor,
No.26, Haddows Road,
Chennai-600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to recall and reassess the Bill of Entry No.319945/18.03.2021, concerning the goods, viz., shoes (3870 pairs) and Sandals (180 pairs) which was wrongly assessed @ IGST 18% as against the applicable 2.5% in terms of Notification No.1/2017-CT(Rate) dated 28.06.2017, as referred to at Para 18(i)(ii)(iv) of the O.in.O.No.85208/2021 dated 09.07.2021, passed by the 1st respondent and also to grant necessary detention certificate in terms of Regulation 6(1) of Handling of Cargos at Customs Area Regulation for the purpose of clearance of goods for home consumption and also for re-export of goods as referred to under para 18(iii) of the said



O.in.O.No.85208/2021 dated 09.07.2021, passed by the 1st respondent, concerning the Bill of Entry No.3199945 dated 18.03.2021, by taking into consideration that the subject bill of entry is pending clearance from March 2021, which is a live consignment.

For Petitioner : Mr.S.Baskaran
For Respondents : Mr.M.Siddarth,
Junior Standing Counsel for
Customs and GST

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents to recall and reassess the Bill of Entry No.3199945 dated 18.03.2021, concerning the Order in Original No.85208/2021 dated 09.07.2021 passed by the first respondent and also to grant necessary detention certificate in terms of Regulation 6(1) of Handling of Cargos at Customs Area Regulation.

2. Mr.Siddarth, learned Junior Standing Counsel for the respondents takes notice on behalf of the respondents.

3. The case of the petitioner is that the petitioner company imported one consignment, covered under Bill of Entry No.3199945 dated 18.03.2021. The petitioner being the importer of the goods, self-assessed the Bill of Entry and declared the value of goods as Rs.5,49,650/-. While so, on 26.03.2021, the subject consignment was detained by the SIIB. Thereafter, the 1st respondent, based on the alleged report submitted by the SIIB, passed the impugned order dated 09.07.2021. Aggrieved by the order of the 1st respondent, the petitioner filed appeal before the Commissioner of Customs (Appeals), Chennai and the same was dismissed. Against the order of the First Appellate Authority, second appeal was filed by the petitioner before the Tribunal, Chennai seeking to set aside the order challenged therein. Since, the Bench could not be constituted for want of members, judicial and technical, the matter was not listed for hearing. Hence, the petitioner having no other choice except filing of the present Writ Petition, has approached this Court.

4. The learned counsel for the petitioner submitted that as against the order of the first respondent dated 09.07.2021, the petitioner filed appeal before the second respondent and the second respondent, confirming the order passed by the first respondent dismissed the appeal filed by the petitioner. Against



the aggrieved order, the petitioner filed another appeal before the third respondent/Tribunal however, since the Bench could not function, the matter was not listed on the date of hearing. However, the petitioner came to know that the Circuit Bench is functioning from today onwards. Hence, it would suffice if this Court issues direction to the third respondent/Tribunal to dispose the appeal dated 19.01.2022 within the time frame as fixed by this Court.

5. The learned Standing Counsel appearing for the respondents submitted that the appeal dated 19.01.2022 filed by the petitioner would be disposed by the third respondent/Tribunal.

6. Considering the limited relief sought for by the petitioner, this Court issues direction to the third respondent/Tribunal to dispose the appeal dated 19.01.2022 filed by the petitioner as expeditiously as possible based on seniority.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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4. The Assistant Registrar,
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+1 CC to Mr.S.Baskaran, Advocate sr 26053.

W.P. No.9317 of 2022

KJ(CO)
SP(16/05/2022)