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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.10423 OF 2022

M/s.Brill India Pvt. Ltd.,
No.106, 8th Main Road,
Malleswaram, West Bangalore,
Karnataka - 560 055,
Rep. By its Director,
Mr.R.Jayaram.

... Petitioner

.Vs.

1. The Deputy Commissioner of Customs, (Gr.6)
Chennai II Commissionerate,
Rajaji Salai, Custom House,
Chennai - 600 001.
2. The Commissioner of Customs (Gr.6)
Chennai II Commissionerate,
No.60, Rajaji Salai,
Custom House,
Chennai - 600 001.
3. The Commissioner of Customs (Appeals-II),
No.60, Rajaji Salai,
Customs 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 re-imported goods, covered under Bill of Entry No.4281619 dated 11.06.2021 for home consumption under CTH 87120090, which is a live consignment and



to further direct the respondents to issue necessary detention certificate in terms of Regulation 6(1) of Handling of Cargos in Customs Area Regulations.

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For Petitioner : Mr.S.Baskaran

For Respondents : Mr.K.Mohana Murali
R1 to R3

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, to direct the respondents herein to recall and reassess the re-imported goods, covered under Bill of Entry No.4281619 dated 11.06.2021 for home consumption under CTH 87120090, which is a live consignment and to further direct the respondents to issue necessary detention certificate in terms of Regulation 6(1) of Handling of Cargos in Customs Area Regulations.

2. Mr.Mohana Murali appearing for the respondents takes notice on behalf of the respondents.

3. The case of the petitioner is that the petitioner/company is an export-oriented distribution company, exported one consignment of "Kids Balance Bike" (240 nos.) to their wholly owned subsidiary at USA vide Shipping Bill No.4448775 dated 27.05.2019, through the Chennai Seaport, for a total sale consideration of Rs.8,17,320/-. While so, due to pandemic covid-19 situation, the operations of the subsidiary company were shut down. Therefore, the petitioner/company was constrained to re-import the same back to India. Accordingly, the subject impugned goods were re-imported and the Bill of Entry No.4281619, dated 11.06.2021 was filed for assessment and clearance of the same. The subject re-imported goods were examined and identified that the identity of some of the goods were not established.

4. Thereafter, the adjudication proceedings were initiated in terms of Customs Act, pursuant to which, the order in Original No.85987 of 2021 dated 20.09.2021 was passed by the first respondent, imposed penalty for improper importation. Against the said order, the petitioner/company preferred appeal before the third respondent and the same was rejected vide the impugned order in Appeal Seaport C.Cus.II No.745/2021 dated 06.12.2021. Aggrieved by the same, the petitioner preferred further appeal before the fourth respondent/Tribunal on 13.01.2022. However, since the Bench could not be constituted for want of judicial and technical members, 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.

5. The learned counsel for the petitioner submitted that as against the order of the first respondent dated 20.09.2021, the petitioner filed appeal before the third respondent and the third 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 fourth 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 every week. Hence, it would suffice if this Court issues direction to the fourth respondent/Tribunal to dispose the appeal dated 13.01.2022 within the time frame as fixed by this Court.

6. The learned counsel appearing for the respondents submitted that the appeal dated 13.01.2022 filed by the petitioner would be disposed by the fourth respondent/Tribunal.

7. Considering the limited relief sought for by the petitioner, this Court issues direction to the fourth respondent/Tribunal to dispose the appeal dated 13.01.2022 filed by the petitioner as expeditiously as possible based on seniority.

8. This Writ Petition is disposed of with the aforesaid directions. No Costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Commissioner of Customs (Gr.3)
Chennai II Commissionerate,
No.60, Rajaji Salai,
Custom House,
Chennai - 600 001.



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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.

+1cc to Mr.S.Baskaran, Advocate, S.R.No.29465
+1cc to Mr.K.Mohana Murali, Advocate, S.R.No.29492

W.P.NO.10423 OF 2022

SSD(CO)
PBS/01/06/2022