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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1384 OF 2020

HT Media Limited ..Petitioner
Vs
The Commissioner of Customs & Anr. ..Respondents

Mr. R. V. Desai, Senior Advocate with Mr. Rohit Pardeshi, Mr. Vikram Naik and Mr. Marmik Kamdar i/b. Khaitan & Co. for Petitioner.

Mr. Jitendra Mishra with Mr. Rupesh Dubey for Respondents.

CORAM : G. S. KULKARNI & JITENDRA JAIN, JJ.
DATE : DECEMBER 11, 2023.

P.C.:

1. Heard Mr. Desai, learned Senior Counsel for the petitioner and Mr. Mishra, learned Counsel for the respondents.

2. The petitioner by this petition filed under Section 226 of the Constitution of India has prayed for the following reliefs:-

> "(a) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the record of the Petitioner's case and qushing and/or setting aside the Impugned Letter F. No.S/26-Misc-555 /2019-20Gr, V dated 29 May 2019 passed by the Respondents (**Exhibit "I"** hereto);
> (b) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India calling for the record of the Petitioner's case and direct the

Respondents to correct the duty foregoine/ duty saved amount under Section 154 read with Section 149 of the Customs Act,1962;

(c) For costs of the Petition; and

(d) For such further and other reliefs, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

3. The primary grievance of Mr. Desai against the impugned order is that the impugned order has been passed without an opportunity of hearing being granted to the petitioner. He submits that a serious prejudice is being caused to the petitioner if the contentions of the petitioner in regard to entitlement of the petitioner under the EPCG liecence which was held by the petitioner, and to have the assessment of bills of entries, considering the exemption as would be available to the petitioner, was not considered in the assessment of the bills of entries which have taken place in November 2008 and December 2009.

4. We have perused the impugned order. We find that the respondents have raised an objection in regard to the application of the petitioner for correction / amendment of the bills under Section 154 read with Section 149 of the Customs Act,1962, is a belated application as it was made after 11 years of the assessment had taken place and without challenging the assessment.

5. Be that as it may, we are not inclined to examine the rival contentions at this stage, suffice it to observe that we are of the opinion that the Designated Officer needs to hear the petitioner and grant an opportunity of personal hearing to the petitioner and pass an appropriate orders in accordance with law. We accordingly, dispose of this petition keeping open all contentions of the parties. Let appropriate orders be passed as expeditiously as possible within four weeks from today. Petitioner be issued 48 hours notice in regard to the date of hearing which may be fixed by the concerned officer.

6. Insofar as any other grievance of the petitioner on release of the goods is concerned, we keep open all such contentions and rights of the petitioner to file appropriate proceedings as the law may permit.

7. Petition stands disposed of in the above terms. No costs.

[JITENDRA JAIN, J.] **[G. S. KULKARNI, J.]**