



W.P.No.9551 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.9551 of 2022

M/s.POS Hyundai Steel Mfg (I) Pvt. Ltd.,
rep. by its General Manager - Accounts & Finance,
Mr.R.Prakash,
F-70, SIPCOT Industrial Post,
Irungattukottai,
Kancheepuram - 602 105. ...Petitioner

Vs.

1.The Deputy Commissioner of Customs (Gr.4),
Custom House,
60, Balaji Salai,
Chennai - 600 001.

2.The Assistant Commissioner of Customs (Gr.4),
Custom House,
60, Balaji Salai,
Chennai - 600 001. ...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to issue a speaking order in respect of the denial of the benefit of S1.No. 530 of Notification No.152/2009-Cus dated 31.12.2009 in respect of goods mentioned in S1.Nos.3, 4 and 5 in bill of Entry No. 9082745 dated 06.10.2020 in a time bound manner.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.H. Siddarth,
Junior Panel Counsel

ORDER

This Writ Petition is filed seeking for a direction to the 2nd respondent to issue a speaking order in respect of the denial of the benefit of S1.No.530 of Notification No.152/2009-Cus, dated 31.12.2009, in respect of the goods mentioned in S1.Nos.3, 4 and 5 in bill of Entry No.9082745 dated 06.10.2020 in a time bound manner.



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2.The learned counsel appearing for the petitioner would submit that they have imported nine items of goods sofar which is the bill of Entry dated 02.10.2020. They have made a claim for customs exemption based on his assessment. However, the assessment was made under the Faceless Assessment Procedure by the Authorities. The assessment was made in the Port of Kolkota without considering the customs exemption Notification dated 31.12.2009. But, the petitioner is entitled for exemption under the Notification No.152/2009-Cus dated 31.12.2009. Though the Authorities have provided goods mentioned in Sl.Nos.3, 4 and 5, in the bill of Entry the Authorities for the reassessment have not taken into consideration and no reasons were given for denying the benefit of the exemption claimed. As the goods were urgently needed the petitioner cleared the subject goods after paying the differential duty under protest and also marked their protest vide letter dated 21.10.2020. He would submit that the petitioner filed



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an Online grievance with the Centralized Public Grievance Redress and Monitoring Systems and he was advised to approach the Port Assessment Group for obtaining a speaking order. Therefore, the order of the respondent is liable to be set aside.

3.On the other hand, the learned counsel appearing for the respondents would submit that for reviving the issue, there is no discussion about the reason for rejection of the claim under the Notification No.152/2009 dated 31.12.2009 and even when the petition is made he is entitled for disposal of the same.

4.Considering the facts and circumstances of the case, it is the duty of the Officer to deal with the same in a proper perspective and provide reasons for denying the benefit of the exemption claimed.



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5. Therefore, this Court is of the view that the orders appear to be a non speaking order and the same is liable to be set aside.

While setting aside the order of the respondents, the matter is remitted back for re-adjudication by the 1st respondent taking into consideration the exemption under Notification No152/2009-Cus dated 31.12.2009 as claimed in the bill of Entry dated 02.10.2020. for the Sl.Nos.3, 4 and 5, preferably within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is disposed of. No costs.

05.10.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
mps

To



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KRISHNAN RAMASAMY, J.

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