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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.18752 of 2023
and
W.M.P(MD)Nos.15579 & 15581 of 2023

M/s. Style Garments,
Represented by its Proprietor
Vivek Kumar Kejriwal,

... Petitioner

vs.

1. The Assistant Commissioner of Customs,
(Arrears Recovery Section),
Office of the Commissioner of Customs,
Custom House, Tuticorin-628004.
2. The Assistant Commissioner of Customs (BRC),
Office of the Commissioner of Customs,
Custom House,
Tuticorin-628004.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order-in-Original No.995 of 2020 dated 22.09.2020 passed by the 2nd respondent and quash the same.



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For Petitioner : M/s.B.Vijay Karthikeyan
For Respondents : Mr.R.Nandakumar,
Senior Standing Counsel

ORDER

This writ petition is filed challenging the impugned order, dated 22.09.2020.

2. Heard B.Vijay Karthikeyan, the Learned Counsel appearing for the petitioner, Mr.R.Nandakumar, the Learned Senior Standing Counsel appearing for the respondents and perused the material documents available on record.

3. Admittedly, the petitioner has exported the goods and is eligible for duty drawback. But the respondents had denied the benefits of duty drawback since the petitioner has not submitted the relevant document. But the contention of the petitioner is that the Bank would grant statement of bank realization manually until 2000, but subsequently it is the duty of the Bank is to upload the Bank Realization Statement in its portal. The respondents are having accessing to



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the same and the respondents ought to verify and ascertain whether the bank realization statement is available.

4. In the present case, the Bank has uploaded as early as on 02.09.2013 itself. Before passing order, the respondents have not verified the same. Moreover, the respondents have not issued any Show Cause notice. Therefore, the petitioner was not in a position to explain the same before the authorities. It is also submitted that the company was closed in the year 2015 itself. Therefore, there was no communication among the parties.

5. In view of the foregoing reasons, this Court is of the considered opinion that the petitioner is entitled to the relief based on the statement of Bank realization, which the petitioner has enclosed in page No.46 of the typed set of papers.

6. Accordingly, the impugned order, dated 22.09.2020 is hereby quashed. The respondents shall issue notice to the petitioner and grant personal



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hearing to the petitioner. The petitioner shall submit the bank realization statement before the respondents and thereafter, the respondents shall pass order. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of the order.

7. With these directions and observations, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No
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To

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