IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.2443 of 2024
and W.M.P.No.2668 of 2024

Sharoof Steel Suppliers
Rep. by its Partner, Mr. Sushil Kumar Sharoff,
Alsamall , F8, 1st floor, Montieth road,
Egmore, Chennai 08. ... Petitioner

-vs-

The Deputy Commissioner of Customs
(GR-4), Customs House , No. 60 Rajaji Salai,
Chennai 01. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned bill of entry No. 8811794 dated 17.11.2023 assessed by the Respondent and quash the same and further direct the respondent to reassess the bill of entry No. 8811794 dated 17.11.2023 after extending the benefit of SI No. 536 of

Notification No. 152/ 2009- Cus dated 31.12.2009 in respect of goods mentioned in Sl.No. 5 and 6 of Bill of entry No. 8811794 dated 17.11.2023.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Ms.Anu Ganesan, Jr. Penal Counsel

****

ORDER

The petitioner challenges the assessment of bill of entry No.8811794 dated 17.11.2023 (the Bill of Entry) and seeks rectification or re-assessment thereof in light of Notification No.152/2009-customs dated 31.12.2009 (Notification No.152).

2. The petitioner states that Sharoof Steel Suppliers are engaged in the wholesale business of manufacturing and trading in iron and steel products. In course of such business, it is stated that several items, including hot rolled steel in coils, were imported under the Bill

of Entry. It is further stated that the petitioner had claimed the benefit of exemption Notification No.152, which provides for nil rate of basic customs duty, in respect of all six items of hot rolled steel imported from the Republic of South Korea.

3. According to the petitioner, the proper officer did not extend the benefit of Notification No.152 in respect of goods mentioned in Serial Nos.5 and 6 of Bill of Entry. Therefore, the petitioner applied on 26.12.2023 for an amendment of the Bill of Entry and for re-assessment in terms thereof. Since the said request was not considered, the present writ petition is filed.

4. By inviting my attention to the Bill of Entry, Notification No.152 and the communication dated 26.12.2023, learned counsel submits that the petitioner is entitled to rectification of the Bill of Entry under Section 149 of the Customs Act, 1962 (the Customs Act).

5. Ms.Anu Ganesan, learned junior Panel counsel, accepts notice on behalf of the respondent. She submits that the communication dated 26.12.2023 from the petitioner is in the nature of a request for re-assessment and not rectification. Therefore, she submits that the petitioner should apply for rectification under Section 149 of the Customs Act.

6. The admitted position is that the statute does not prescribe a format in which a rectification application should be filed. The communication dated 26.12.2023 bears the subject description "amendment of bill of entry for inclusion of CETA notification for line items Nos.5 and 6". Thus, there is sufficient indication in the communication that the petitioner seeks rectification of the Bill of Entry. Given the fact that power is conferred under Section 149 of the Customs Act on the proper officer to consider an application for rectification, there is no reason to reject the application merely

because it does not make reference to Section 149 or on the ground that the word rectification is not used therein.

7. It should, however, be noticed that it is necessary for the person claiming exemption to place on record and establish that all relevant documents were in existence at the time of clearance of the goods concerned for home consumption. Therefore, it is necessary to direct the petitioner to produce such documents.

8. For reasons set out above, this writ petition is disposed of by directing the respondent to consider the application dated 26.12.2023 as a rectification application and dispose of the same on merits within ***four weeks*** of production of all relevant documents by the petitioner. The petitioner is directed to produce all relevant documents before the respondent within a maximum period of ***two weeks*** from the date of receipt of a copy of this order.

9. W.P.No.2443 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.2668 of 2024 is closed.

05.02.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

The Deputy Commissioner of Customs
(GR-4), Customs House , No. 60 Rajaji Salai,
Chennai 01.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.2443 of 2024
and W.M.P.No.2668 of 2024

05.02.2024