IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.3338 of 2024

M/s.Aditya International Ltd.,
Rep. by its Director Mr.Aditya Agarwal,
Suit No.226, Bussa Indl. Premises,
Co-op Society Ltd., Century Bazar Lane,
Prabhadevi, Mumbai 400 025. ... Petitioner

-vs-

The Deputy Commissioner of Customs
Appraising Group - 3,
Office of the Commissioner of Customs,
Chennai Custom House, Rajaji Salai,
Chennai - 600 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondent to expeditiously amend the four Bills of Entry as mentioned herein above under Section 149 of the Customs Act, as prayed for by the petitioner in their request letter dated 29.04.2023 to avail the benefit of exemption from CVD under the Central Excise Notification No.30/2004 dated 9th July, 2004, and can make an application for refund under Section 27 of the Act for excess CVD paid.

For Petitioner : Mr.K.Jeyachandran

For Respondent : Mr.Avinash Wadhwani, Jr. SC

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ORDER

The petitioner seeks a direction for the amendment of four Bills of Entry pursuant to the petitioner's application for amendment and consequential refund.

2. The petitioner states that silk fabrics were imported from China under four Bills of Entry after paying Countervailing Duty (CVD) of about Rs.5,00,000/-. By asserting that the petitioner is

entitled to CVD exemption under Central Excise Notification No.30/2004 dated 09.07.2004, the petitioner, by letter dated 29.04.2023, requested the respondent to amend the four Bills of Entry under Section 149 of the Customs Act, 1962 (the Customs Act). On the ground that no action was taken on the request for amendment, the present writ petition was filed.

3. Mr.Avinash Wadhwani, learned junior standing counsel, accepts notice for the respondent. He submits that the petitioner is not entitled to seek an order directing amendment in these proceedings.

4. The documents on record include the petitioner's request for amendment on 29.04.2023. A request for amendment has to be considered in accordance with Section 149 of the Customs Act, including the proviso thereto, especially when such request is made after the relevant goods were cleared for home consumption.

Therefore, a mandamus directing amendment cannot be issued at this juncture. Nonetheless, the respondent may be directed to consider and dispose of the petitioner's request.

5. Accordingly, W.P.No.3338 of 2024 is disposed of by directing the respondent to consider and dispose of the petitioner's request for amendment dated 29.04.2023 in accordance with Section 149 of the Customs Act. The said request shall be disposed of within a maximum period of ***six weeks*** from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner. No costs.

15.02.2024

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

To

The Deputy Commissioner of Customs
Appraising Group - 3,
Office of the Commissioner of Customs,
Chennai Custom House, Rajaji Salai,
Chennai - 600 001.

SENTHILKUMAR RAMAMOORTHY,J

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