



W.P.No.17637 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.17637 of 2022

R.E.Rogers India Pvt., Ltd.,
rep. By its Chief Executive Officer,
Mr.Sudhir Dhavan
603, Spencer Plaza, 1st Phase,
6th Floor, 769, Anna Salai,
Chennai – 600 002

...Petitioner

Vs

The Senior Deputy Traffic Manager,
Chennai Port Trust,
Administrative Office,
Rajajai Salai,
Chennai – 600 001

..Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent herein relating to the issuance of the Letter dated 23.07.2021 bearing reference no.G4/04/2020/TC rejecting the petitioner's refund claim and quash the same and direct the respondent herein to refund the excess amount of wharfage to the tune of Rs.34,32,118/- collected by the respondent to the petitioner herein.

For Petitioner :Mr.L.Syed Sibghatulla

For Respondent :Mr.Harshini Jhothiraman



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ORDER

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The present Writ Petition has been filed seeking for an issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent herein relating to the issuance of the Letter dated 23.07.2021 bearing reference no.G4/04/2020/TC rejecting the petitioner's refund claim and quash the same and direct the respondent herein to refund the excess amount of wharfage to the tune of Rs.34,32,118/- collected by the respondent to the petitioner herein.

2. The learned counsel for the petitioner submitted that the petitioner's company was incorporated in the year 1986 for handling exhibition cargo around India and abroad and the company is a market leader in the field of domestic and overseas logistics. In the last decade, the petitioner-company has expanded their operations into varied services such as Defence, free trade zone services, special import / export projects etc., The Government of India, Ministry of defence had organised a Defence Exhibition in the name of 'DEFEXPO INDIA 2020', which was held at Lucknow between the 5th and 8th February 2020 and the petitioner's Company facilitated the import of the defence system of the importers, M/s Hanwa Defence Company, Korea for the purpose of exhibiting the said consignment in DEFEXPO India 2020 vide ATA Carnet bearing



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no.KR201901994 and for which the petitioner filed Import Application No.IA/19/2682 dated 10.01.2020 for import of Hybrid Biho Air Defence System of 26,500 Kgs from Hanwa Defence Company, Korea via MV Diamond Star V.509W/IGM No.2243540 on 06.01.2020 through the respondent Port. The warfage charges were provisionally assessed on an ad valorem basis, as if the consignment falls under Section 36(b) under Section 3.1.1 of Scale of Rates at 0.5213 % on the assessable value of Rs.57,82,00,000/- by the Respondent. Accordingly an amount of Rs.35,57,230/- was charged as wharfage vide invoice dated 10.01.2020 . However, the petitioner addressed a letter dated 13.01.2020 and subsequent letter dated 05.02.2020, which interalia stated that the petitioner's consignment falls under Entry 21 of Scale of Rates, which is subject to lesser wharfage charges than what has been imposed on the petitioner. The petitioner sought a refund of Rs.34,32,118/- from the respondent. Further, the petitioner's consignment, which was imported temporarily, was urgently sought to be displayed at DEFEXPO 2020 held at Lucknow in February 2020 organised by the Ministry of Defence, the wharfage was paid under protest. All these things are different. The petitioner's representation was rejected by the impugned order dated 23.07.2021. Challenging the same, the present writ petition has been filed.



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3. The learned counsel for the petitioner would submit that admittedly the consignment imported by the petitioner falls under either 21 or 25 of Scale of rates and on persual of the said Scale of Rates 21 and 25 makes it clear that machinery & equipment is fitted with the wheels and its assemble units and the motor vehicles for carrying passenger or materials either 2W, 3W or 4W, 6W all those motor vehicles fall under 21 or 25 of scale of rates, however, in the present case, the respondent charged scale of rates in terms of entry 36, scale of rates, which is not acceptable one, if the consignment not fall under 21 or 25, it is classified as 36. Once the petitioner's consignment falls under 21 or 25, charging scale of rates under 36 is impermissible one, hence prayed to set aside the impugned order.

4. The learned counsel for the respondent would submit that the consignment imported by the petition is fitted with iron wheels or chain wheels. The said consignment imported by the petitioner would not fall under Entry 21 or 25(d) , definitely, it falls under scale of rates 36. Further, the petitioner paid the entire wharfage charges in terms of Entry 36 and thereafter, made a representation to refund the amount. The issue was elaborately considered and rejected by the authority, thereby pleaded to dismiss the petition.



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5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the documents placed on record carefully.

6. Whether the consignment imported by the petitioner from Hanwa Defence Company, Korea via MV Diamond Star V.509W/IGM No.2243540 on 06.01.2020 either fall under 21 or 25 or 36, this Court perused the consignment imported by the petitioner. On perusal of the consignment imported by the petitioner, it is a armour tank fitted with iron wheels with chain racket / caterpillar wheels, however, the same was not defined under scale of rates 21 or 25, when it is not defined under scale of rates 21 or 25, definitely, it falls under under 36 thereby the amount was calculated and cannot be refunded .

In view of the above, the present Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.08.2024

Index: Yes/No;
Internet: Yes/No
Speaking order / non speaking order

ssd



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M.DHANDAPANI,J.,

ssd

To

The Senior Deputy Traffic Manager,
Chennai Port Trust,
Administrative Office,
Rajajai Salai,
Chennai – 600 001

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