IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.5135 of 2024
and W.M.P.No.5645 of 2024

M/s.Future Stone Works Pvt. Ltd.
Represented by its Director
Mr.Sunil Bansal
2nd Floor, B Wing, No.205,
Corporation No.6/231, Mittal Tower,
M.G.Road, Bangalore - 560 001. ... Petitioner

-vs-

1.Commissioner of Customs (Appeals-II)
Customs House,
No.60, Rajaji Salai,
Chennai 600 001.

2.The Additional Commissioner of Customs,
EDS, Chennai - IV Commissionerate,
Chennai 600 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records pertaining to impugned order-in-appeal C.Cus.II No.481/2023 dated 27.07.2023 passed by first respondent in F.No.C3/II/907/O/2021-Sea and quash the same.

For Petitioner : Mr.L.Gokulraj
for Mr.Hari Radhakrishnan

For Respondents : Mr.B.Aravind Srevatsa, Jr. SC

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ORDER

An appellate order dated 27.07.2023 of the first respondent is challenged primarily on the ground that such order is unreasoned. The petitioner is engaged in the import and re-export of quartz products. He had filed about five shipping bills on 13.07.2021 for re-exporting products covered under specific invoices to the United States of America. According to the petitioner, he inadvertently mentioned the country of origin as India in the export invoices instead of China. The petitioner further asserts that by oversight it was mentioned that the petitioner intended to claim Remission of Duties and Taxes on Exported Products under Notification No.19/2015 dated 17.08.2021. By further asserting that such benefits were actually not claimed or availed of by the petitioner, the petitioner carried the order-in-original dated 06.09.2021 in appeal before the first respondent. The present writ petition is directed against the appellate order rejecting such appeal.

2. Learned counsel for the petitioner invited my attention to the appellate order and pointed out that paragraphs 1 to 5 thereof merely set out the facts relating to the filing of the appeal, including by reproducing the reply of the appellant therein. By turning to paragraph 6, learned counsel submits that it is a reproduction of the findings of the lower adjudicatory authority. By pointing out that paragraph 7 is a reproduction of statements made by the petitioner herein, he submits that, in paragraph 8, the appellate authority

merely recorded that he does not find any reason to interfere with the order in original. Because this order is completely unreasoned, learned counsel submits that such order is liable to be quashed.

3. Learned standing counsel for the respondents, Mr.B.Aravind Srevatsa, accepts notice for the respondents. He submits that the order-in-original sets out extensive reasons for rejecting the defence raised by the petitioner. With reference to the appellate order, he submits that the findings of the lower adjudicatory authority were discussed in paragraph 6 before recording the conclusion that there is no reason to interfere with the same.

4. On examining the impugned appellate order, I find that the discussion begins in paragraph 6 because the preceding paragraphs merely set out the background. In paragraph 6, the findings of the lower adjudicatory authority are placed within quotation marks. In paragraph 7, a particular statement of the petitioner is quoted.

Thereafter, in paragraph 8, the appellate authority records that he finds no reason to interfere with the order-in-original. In effect, there is no indication in the appellate order that the appellate authority independently applied his mind to the materials placed on record. Unless the appellate authority undertakes an independent assessment, the statutory right of appeal would be rendered illusory. Hence, the impugned appellate order calls for interference.

5. For reasons set out above, the impugned order is quashed and the matter is remanded for re-consideration. After providing a reasonable opportunity to the petitioner, including a personal hearing, the appellate authority is directed to dispose of the appeal within a maximum period of ***two months*** from the date of receipt of a copy of this order.

6. W.P.No.5135 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.5645 of 2024 is closed.

01.03.2024

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

To

1.Commissioner of Customs (Appeals-II)
Customs House,
No.60, Rajaji Salai,
Chennai 600 001.

2.The Additional Commissioner of Customs,
EDS, Chennai - IV Commissionerate,
Chennai 600 001.

SENTHILKUMAR RAMAMOORTHY,J

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