IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

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THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.9791 of 2022 &
W.M.P.No.9516 of 2022

M/s Mars International India Private Limited
Represented by its Director – Supply Chain
Shri Manish Borade ... Petitioner

Vs.

The Assistant Commissioner of Customs (Group – I)
Custom House, No.60, Rajaji Salai
Chennai – 600 001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the reassessment made in the bill of entry No. 3880635 dated 09.05.2021 by the respondent and quash the same as illegal and violative of the provisions of Section 17 of the Customs Act 1962.

For the Petitioner : Mr.Hari Radhakrishnan

For the Respondent : Mr.K.Mohana Murali
Sr. Standing Counsel

ORDER

Challenge is made against the impugned order passed by the respondent in the bill of entry No.3880635 dated 09.05.2021.

2. It is the case of the petitioner that on 09.05.2021, the petitioner filed a bill of entry No.3880635 for importing 'Pet Food for Cat' and he claimed the benefit of Sl.No.187 (1) of the Notification No.46/2011-Cus dated 01.06.2011. In order to claim the said benefit, the petitioner also submitted the Country of Origin (CoO) and also fulfilled the provisions of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020, by submitting the annexure and declarations in the prescribed format.

3. As the bill of entry was reassessed, the petitioner was called upon to pay further customs duty amounting to Rs.19,10,956/-. Hence, the petitioner made representation before the respondent. Since the same is still pending without any reply from the respondent, the petitioner has filed the present Writ Petition.

4. The learned counsel for the petitioner would submit the respondent has not passed a speaking order as against the bill of entry though the petitioner submitted the Country of Origin (CoO) and also fulfilled the provisions of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020. Non- passing a speaking order by the respondent, clearly violates the principles of natural justice.

5. The learned Senior Standing Counsel would fairly submit that if this Court feels that the matter may be remitted back to the respondent for reconsideration, the respondent will comply with the same.

6. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents and perused the materials placed before this Court.

7. In the present case, the petitioner filed a bill of entry No.3880635 along with self-assessment and made a claim for exemption under the notification No..46/2011-Cus dated 01.06.2011. However, the respondent was not inclined to

accept the self-assessment made by the petitioner and provide the benefit of Notification No.46/2011. The respondent before rejecting the benefit available under Notification No.46/2011, they should have provided opportunity of personal hearing and passed a speaking order in terms of Section 17 (5) of the Customs Act. In the present case, no such personal opportunity was provided and also the order passed by the respondent is a non-speaking order. Hence, the impugned assessment was made clearly in violation of the provisions under Section 17 (5) of the Customs Act.

8. In view of the above facts and circumstances, the impugned assessment of bill of entry No.3880635 dated 09.05.2021 is set aside and the matter is remanded back to the respondent for fresh consideration and in the event if the petitioner is inclined to submit any reply, it shall be submitted within a period of three weeks from the date of receipt of a copy of this order and thereafter, the respondent shall pass a speaking order within a period of six weeks therefrom, after affording an opportunity of personal hearing.

9. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

24.09.2024

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Speaking/Non-speaking order
Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To
The Assistant Commissioner of Customs (Group – I)
Custom House, No.60, Rajaji Salai
Chennai – 600 001.

KRISHNAN RAMASAMY.J.,
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