IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.8789, 8794, 8799, 8802, 8806, 8810 & 8814 of 2021
and
W.M.P.Nos.9320, 9323, 9329, 9334, 9341, 9345 and 9348 of 2021

W.P.No.8789 of 2021:-

M/s.Maersk Line India Pvt Ltd,
104/29, Thousand Lights West,
Thousand Lights, Chennai,
Tamil Nadu – 600 006.
Represented by its Authorized Signatory,
Mr.P.Kumaran ... Petitioner

Vs

1.The Commissioner of Customs,
Chennai IV Commissionerate,
Customs House,
No.60, Rajaji Salai,
Chennai – 600 001.

2.The Joint Commissioner of Customs,
Chennai IV Commissionerate (UCC),
Customs House,
No.60, Rajaji Salai,
Chennai – 600 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned Order in Original No.79067/2021 dated 20.01.2021, vide F.No.S.Misc.159/2020-UCC passed by the 2nd respondent and quash the same.

For Petitioner (in all W.Ps) : Mr.C.Thiagarajan

For Respondents (in all W.Ps) : Mr.M.Santhanaraman Senior Standing Counsel

COMMON ORDER

By this common order, all these Writ Petitions are being disposed of. In these writ petitions, the petitioner has challenged the respective impugned orders in Original Nos., as detailed below:-

S. No	***W.P.Nos***	***Date of Import***	***Date of issuance of SCN***	***Impugned order in Original Nos.***	***Date of Order in Original***
1	8789/2021	14.06.2012	06.01.2021	79067/2021	20.01.2021
2	8794/2021	23.04.2012	14.12.2020	78760/2020	31.12.2020
3	8799/2021	26.05.2012	04.11.2013	78979/2021	11.01.2021
4	8802/2021	22.08.2013	09.12.2020	78746/2020	29.12.2020
5	8806/2021	23.08.2004	23.02.2021	79584/2021	04.03.2021
6	8810/2021	12.05.2013	28.01.2021	80570/2021	03.03.2021
7	8814/2021	11.09.2013	28.01.2021	80571/2021	04.03.2021

2. The petitioner is a steamer agent who had imported consignment of metal scraps from different importers. The allegations against the petitioner in the above mentioned Show cause Notices are that the petitioner has failed to comply with the mandatory requirements of Circular No.56 of 2004 dated 18.10.2004 read with Chennai Custom House Public notice 152/2004 dated 19.10.2004, in terms of which, it was the responsibility of the steamer agent/petitioner to collect Pre-Shipment Inspection (PSI) certificate before loading the cargo on the ship.

3. Under these circumstances, the above mentioned Show Cause Notices were issued under Section 124 of the Customs Act, 1962. In these Show Cause Notices, the petitioner was called upon to show cause as to why the penalty under Sections 112(a)/117 of the Customs Act, 1962, should not be imposed on it. By the impugned orders, the petitioner has also been imposed with penalty of Rs.1,00,000/- each in the respective Show Cause Notices.

4. The learned counsel for the petitioner would submit that an identical issue came up before this Court in W.P.(MD).Nos.8247 of 2021 etc., batch in the case of the petitioner, wherein, orders confirming the proposal in the show cause proceedings against the petitioner were set aside by this Court vide its order dated 21.12.2023.

5. On the other hand the learned counsel for the respondents would submit that the petitioner has an alternate remedy before the Appellate Commissioner under Section 128 of the Customs Act, 1962 and therefore these writ petitions are liable to be dismissed.

6. That apart, on merits, it is submitted that as a Steamer/Liner, the petitioner was bound by the above circular and having failed to comply with the above requirements, the petitioner was imposed with the penalty under Sections 112(a) and 117 of the Customs Act, 1962 and therefore there is no merits in the writ petitions.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

8. Operative portion of the Court's order dated 21.12.2023 reads as under:-

> *"7. Applying the reasoning contained in the above judgments it leaves no room for any doubt in my mind that the impugned proceedings under Section 124 of the Act, 12 years after the import is liable to be set aside on the ground of unreasonable delay. Thus the impugned proceedings are set aside. The writ petitions stand disposed of. No costs. Consequently, connected miscellaneous are closed."*

9. Since the issue stands squarely covered in favour of the petitioner in terms of order of this Court's dated 21.12.2023 in W.P.Nos.8247 of 2021 etc., batch, this writ petition deserves to be allowed in so far as the petitioner is concerned.

10. Under these circumstances, the impugned orders are quashed insofar as the petitioner is concerned. Accordingly, these writ petitions stand allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

09.08.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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C.SARAVANAN, J.

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