IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12675 of 2024
and W.M.P.No.13825 of 2024

M/s.Dixon Technologies (India) Ltd.,
Represented by its Senior General Manager-Exim
Mr.Mahipal Singh Bisht
B-14 & 15, Phase-II,
Noida-201 305. ... Petitioner

-vs-

The Deputy Commissioner of Customs (Gr.5A)
Customs House, No.60, Rajaji Salai,
Chennai-600 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned bill of entry No.9753120 dated 20.01.2024 assessed by the Respondent and quash the same and further direct the Respondent to re-assess the bill of entry No.9753120 dated 20.01.2024 after extending the benefit of Sl.No.515A of notification No.50/2017-Cus dated 30.06.2017.

For Petitioner : Mr.Gokul Raj

For Respondent : Mr.G.Meganathan,
Junior Standing Counsel

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ORDER

The petitioner is engaged in the manufacture of various electronic components. In relation thereto, the petitioner had imported goods described as Open Cell under Bill of Entry No.9753120 dated 20.01.2024.

2. The petitioner asserts that it had inadvertently omitted to claim the benefit of Sl. No.515A of Notification No.50/2017-Customs dated 30.06.2017 (Notification No.50/2017). Such notification provides for a concessional rate of 5% Basic Customs Duty in respect of 'Open Cell' used in the manufacture of Liquid Cystal Display (LCD) and Light Emitting Diode (LED) TV panels. In those circumstances, the petitioner requested for an amendment of the Bill of Entry by communication dated 30.01.2024. Since such communication was not acted upon, the present writ petition was

filed.

3. Learned counsel for the petitioner referred to the judgment of the Hon'ble Supreme Court in *Share Medical Care v. Union of India, 2007 (209) ELT 321 (SC)* to contend that the assessee is not debarred from claiming the benefit of a particular notification merely because such benefit was not claimed at the initial stage. He further submits that the proviso to Section 149 of the Customs Act, 1962, enables the amendment of a bill of entry on the basis of documents that were in existence at the time of import of such goods.

4. Mr.G.Meganathan, learned junior standing counsel, accepts notice for the respondent. He submits that the petitioner has an alternative remedy and that this writ petition should not be entertained on that account.

5. The petitioner has placed on record the relevant Bill of Entry. The said document describes the goods as 'Open Cell'. The petitioner has also placed on record Notification No.50/2017, including the

relevant entry 515A thereof. These documents indicate *prima facie* that the petitioner may be entitled to the benefit of Notification No.50/2017. The entitlement to amendment of a bill of entry is governed by Section 149 of the Customs Act. The proviso thereto indicates clearly that such amendment is to be considered based on documents that were in existence at the time of clearance of goods for home consumption. Given that the petitioner has filed an application seeking amendment on 30.01.2024, it is sufficient if such application is considered and disposed of in accordance with Section 149.

6. For reasons set out above, W.P.No.12675 of 2024 is disposed of by directing the respondent to consider the petitioner's application dated 30.01.2024 and dispose of the same in accordance with Section 149 of the Customs Act, 1962, within four weeks from the date of receipt of a copy of this order. Consequently, W.M.P.No.13825 of 2024 is closed.

06.06.2024

Index : Yes / No
Internet : Yes / No

Neutral Citation: Yes / No
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To

The Deputy Commissioner of Customs (Gr.5A)
Customs House, No.60, Rajaji Salai,
Chennai-600 001.

SENTHILKUMAR RAMAMOORTHY,J

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