IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.16142 of 2022
and
W.M.P.Nos.15523, 15524 and 15525 of 2022

M/s.Anbu Impex ... Petitioner

Vs.

The Deputy Commissioner of Customs – Group-5A,
Office of the Commissioner of Customs, Chennai – II,
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the Respondent leading to issuance of Order in Original No.90788/2022 dated 09.06.2022 issued from F.No.CUS/APR/ASS/2679/2021-GR-5A and quash the same, in its entirety and further direct the Respondent to pass fresh orders in adjudication and also direct the Respondent to release the goods imported vide Bill of Entry No.6481622 dated 01.12.2021 pending such fresh Order in Adjudication and also direct the Respondent to issue a Detention Certificate for waiver of Demurrage and Container Detention Charges, in terms of

Regulations 6(1)(1) of the Handling of Cargo in Customs Areas Regulations 2009.

For Petitioner : Mr.A.Manoj Kumar

For Respondent : Mr.S.Gurumoorthy
Junior Standing Counsel

ORDER

The Petitioner is before this Court against the Impugned Order in Original No.90788/2022 dated 09.06.2022.

2. By the Impugned Order, the transaction value declared by the Petitioner in the Bill of Entry No.6481622 filed on 01.12.2021 has been rejected and the transaction value has been arrived at Rs.9,69,534/-. Operative portion of the Impugned Order reads as under:-

"31. In view of the foregoing Para and on careful consideration, I pass the following order:

ORDER

I. I reject the declared value of (SGD 3690) Rs.2,05,349/- (Rupees Two Lakh Five Thousand Three Hundred and Forty Nine Only) in terms of *the provisions contained in Rule 12 of the Customs Valuation (Determination of the Value of Imported Goods) Rules, 2007 and Re-determine the value as (SGD 17,422) Rs.9,69,534/- (Rupees Nine Lakh Sixty Nine Thousand Five Hundred and Thirty Four Rupees Only) under Rule 9 of Customs Valuation (Determination of the Value of Imported Goods) Rules, 2007.*

II. I order for the absolute confiscation of the goods declared as Used goods covered in BE No.6481622 dated 01.12.2021 for contravention of provisions of FTP 2015-20 read with the prohibitions imposed under FT (DR) Act, 1992 read with Section 11 of the Customs Act, 1962.

III.I impose a penalty of Rs.2,00,000/- (Rupees Two Lakhs Only) on the importer M/s.Anbu Impex, (IEC-0414039106) under Section 112 (a) of the Customs Act, 1962 for having rendered the goods liable for confiscation under Section 111(d), 111(l) and 111(m)"

3. The case of the Petitioner is that the Petitioner had declared the invoice value of the imported consignment of used speaker as 3690 Singapore Dollars (SGD) amounting to Rs.2,05,348/-. However, the Respondent referred the matter to a First Chartered Engineer and arrived at the value at Rs.8,08,094/- in terms of the Chartered Engineer Certificate dated 06.12.2021.

4. It is submitted that thereafter the Respondent has referred the consignment for second valuation of another valuer who has valued the consignment at Rs.9,69,534/-.

5. It is submitted that there is gross violation of principles of natural justice and the imported consignment are still lying with the Respondent.

6. The learned Junior Standing Counsel for the Respondent on the other hand would submit that the Writ Petition is devoid of merits and therefore is liable to be dismissed.

7. He would further submit that the Petitioner has an alternate remedy in terms of Section 128 of the Customs Act, 1962 before the Commissioner of Customs (Appeal) Chennai.

8. Having considered the submissions made by the learned counsel for the Petitioner and the the learned Junior Standing Counsel for the

Respondents, I am inclined to dispose this Writ Petition by permitting the Petitioner to file Statutory Appeal against the Impugned Order within a period of thirty (30) days from the date of receipt of a copy of this Order before the Commissioner of Customs (Appeals) Chennai. Petitioner may however deposit the admitted tax liability due on the value arrived by the First Chartered Engineer at Rs.8,08,094/- vide Certificate dated 06.12.2021 and have the imported goods cleared and confirm the proposed appeal for the differential value based on the second Chartered Engineer Certificate dated 04.05.2022.

9. The Petitioner shall furnish such security as may be demanded by the Respondent for release of the consignment for differential tax to be paid by the Petitioner.

10. With the above liberty, the Writ Petition stands disposed of. No cost. Consequently, connected Miscellaneous Petitions are closed.

30.08.2024

Index : Yes/No

Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

C.SARAVANAN, J.

rgm

To

The Deputy Commissioner of Customs – Group-5A,
Office of the Commissioner of Customs, Chennai – II,
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.

W.P.No.16142 of 2022
and
W.M.P.Nos.15523, 15524 and 15525 of 2022

30.08.2024