IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

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THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.15611 of 2024
AND
W.M.P.No.17001 of 2024

M/s.Spac Starch Products [India] Privte Limited,
S.F.No.65, 66, 67, Mugasipudur Post,
Poonachi Village, Anthiyur Taluk,
Erode District – 638 314 .. Petitioner

Vs

The Commissioner of Customs,
O/o.the Commissioner of Customs,
Chennai II [Import] customs House,
No.60, Rajaji Salai, Chennai – 600 001. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order in Original No. 106037/2024 dated 04.04.2024 in F.No. CAU / AUDIT / GR1 / 109 / 2023-CAU-II GEN / ADT / PCA / 244 / 2022-GR1 passed by the respondent herein and to quash the same in so far as the said impugned order had been passed without jurisdiction authority of law and against the various judical pronouncements and the Provisions of Law and also in clear violation to the principles of natural justice.

For Petitioner : Mr.S.Baskaran

For respondents : Mr.K.Mohana Murali
Senior Standing Counsel

O R D E R

This writ petition is filed challenging the impugned order dated 04.04.2024 of the respondent thereby imposing differential duty together with interest and penalty against the petitioner.

2. The learned counsel appearing for the petitioner would submit that the impugned Order has been passed without providing opportunity of personal hearing to the petitioner. Therefore, the impugned Order has been passed in violation of principles of natural justice. Hence, the same is liable to be set aside.

3. Per contra, learned Senior Standing Counsel appearing for the respondent, would submit that ample opportunity has been provided to the petitioner. He would further submit that personal hearing opportunity was granted to the petitioner on 13.03.2024, which was attended by the legal consultant of the petitioner through virtual hearing and made his submissions and he has also submitted his written submissions through email on 14.03.2024

and the impugned Order came to be passed on 04.04.2024. Therefore, he would submit that in the present case, an opportunity of personal hearing was provided to the petitioner and the same was attended by the legal consultant of the petitioner and he also submitted written submissions through email and thereafter, the impugned Order came to be passed. As an alternative remedy of appeal is availble to the petitioner, requested this Court to pass appropriate Order.

4. I have given due consideration to the submissions of the learned counsel for the petitioner as well as the learned Senior Standing Counsel for the respondent.

5. A perusal of records reveals that an opportunity of personal hearing was provided to the petitioner on 13.03.2024 and the same was attended by legal consultant of the petitioner through virtual hearing and he also submitted written submissions on 14.03.2024 through email and thereafter, the impugned Order came to be passed. Under these circumstances, it cannot be said the no personal hearing opportunity was given to the petitioner and hence, this Court is not inclined to entertain the plea of the petitioner. As alternative remedy is available to the petitioner, the petitioner is at liberty to prefer appeal before

appropriate forum.

6. At this stage, the learned counsel appearing for the petitioner submitted that the appeal time has already been expired and time may be given to the petitioner for preferring appeal, for which the learned Standing Counsel has no objection.

7. Accordingly, this Court passes the following order:-

(i) This Writ Petition is dismissed.

(ii) 30 days from the date of receipt of a copy of this Court is granted to petitioner to prefer the appeal before the appropriate forum and the authorities shall take the appeal on file without insisting on limitation, if the appeal is, otherwise, in Order.

There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

09.09.2024

vrc

Index : Yes/No
Neutral Citation : Yes/No

To

The Assistant Commissioner,
O/o.the Assistant Commissioner of GST & Central Excise,
Puducherry Division – II, 14, Municipal Street,
Reddiyarpalayam, Puducherry – 605 010.

KRISHNAN RAMASAMY, J.

vrc

W.P.No.15611 of 2024 &
WMP.No.17001 of 2024

09.09.2024