IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.19652 and 19654 of 2021
and W.M.P. Nos.20933 ad 20934 of 2021

Power Sports International
Rep. By its Proprietor,
2B, Jai Durga Building,
Door No.63/B8, 1st Avenue, Ashok Nagar,
Chennai-600 083. ... Petitioner in both W.Ps.

Vs.

1.The Commissioner of Customs,
Customs House, Chennai-600 001.

2.The Deputy Commissioner of Customs,
Group 3, Customs House,
Rajaji Salai, Chennai-600 001. ... Respondents in both W.Ps.

PRAYER in W.P.No.19652 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the 2nd Respondent in reassessment of Bill of Entry No.9982617 dated 16.12.2020 which reassessed on 31.12.2020 and quash the same.

PRAYER in W.P.No.19654 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the 2nd Respondent in reassessment order dated 07.01.2021 in respect of Bill of Entry No.2164246 dated 30.12.2020 pertaining to Item No.22 to 31 contained in the Bill of Entry and quash the same.

For Petitioners in both W.Ps.	:	Mr.P.R.Krishnaraj
For Respondents in both W.Ps.	:	Mr.A.P.Srinivas Senior Standing Counsel

COMMON ORDER

These two writ petitions have been filed challenging the reassessment order of Bill of Entry Nos.9982617 and 2164246 dated 16.12.2020 and 30.12.2020 whereby the import made by the petitioner of helmets and its parts, accessories which have been declared as falling under the Customs Tariff CTH 65061090 and 65070000 have been reassessed under CTH 87141090.

2. The challenge is primarily on the premise that any reassessment on the Bill of Entry ought to be made by a speaking order unless the importer

had accepted to the reassessment in writing. In this regard it may be relevant to refer to Section 17(4) and (5) of the Customs Act, which reads as under:

> “(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.
>
> (5) Where any re-assessment done under sub-section (4) is contrary to the self assessment done by the imported or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.”

3. Admittedly, the petitioner has not given any such acceptance in writing for reassessment. To the contrary, the duties have been paid under protest inasmuch as the petitioner did not agree with classification of the imported items under CTH 87141090 by way of reassessment under Section 17 of the Customs Act, 1962. Admittedly, the reassessment of the Bills of Entries were made without assigning any reasons. The learned counsel for the Respondents would submit that they shall pass a speaking order.

4. In view thereof, the writ petitions are disposed of leaving it open to the petitioner to submit its objections within a period of 6 weeks from the date of receipt of a copy of this order. If any such objections are filed, the

same shall be considered and a speaking order shall be passed in terms of Section 17(5) of the Customs Act, 1962, within a period of 12 weeks thereafter.

5. With the above direction, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.04.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
1.The Commissioner of Customs,
Customs House, Chennai-600 001.

2.The Deputy Commissioner of Customs,
Group 3, Customs House,
Rajaji Salai, Chennai-600 001.

MOHAMMED SHAFFIQ, J.

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