



W.P.No.26668 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26668 of 2022
and
W.M.P.No.25723 of 2022

M/s.Farm Equipment Corporation,
Represented by its
Managing Director Mr.L.Edward Joseph
Plot No.4, Sairam Street,
Jothi Nagar, Kolathur,
Chennai – 600 099.

... Petitioner

Vs.

- 1.The Commissioner of Customs (Import),
ICD-CONCOR
Commissionerate – II
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.
- 2.The Assistant Commissioner of Customs (Import),
ICD-CONCOR
Commissionerate – II,
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.

... Respondents



W.P.No.26668 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of certiorari, to call for the records of the impugned proceedings of the 2nd respondent in Order in Original No.91613/2022 dated 25.07.2022.

For Petitioner : Mr.M.Hariharan

For Respondents : Mr.Gurumoorthy
Senior Panel Counsel

ORDER

In this writ petition, the petitioner has challenged the Order-in-Original No.91613/2022 dated 25.07.2022. By the impugned order, the respondents have confirmed the demand in respect of imports made by the petitioner covered by the following Bills of Entry.

Sl. No	B/E No.	B/E Date	Item Nos Description	Total IGST Paid @ 12% (in Rs.)	Total IGST Payable @ 18% (in Rs.)	IGST Difference
1	2374004	09.07.2017	1	275121	412681	137560
2	2518364	19.07.2017	1,2,3	299102	448652	149550
3	3734122	24.10.2017	1,2,3	285488	428231	142743
Total						429853



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2. Operative portion of the impugned order dated 25.07.2022 reads as under:-

“1. I reject the payment of IGST @ 12% under S.No. 196 of Schedule II under Notification No.1/2017-IGST as adopted by the importer for the items against the 3 bills of Entry viz., 1.2374004 dt. 09.07.2017, 2.2518364 dt. 19.07.2017 & 3.3734122 dt. 24.10.2017 as stated above in Table-I and confirm the payment of IGST @ 18% under SI.No.453 of Schedule-III of Notification No.01/2017-IGST in respect of above said 3 Bills of Entry.

2. I confirm the demand of Rs.4,29,853/- (Rupees Four Lakhs Twenty Nine Thousand Eight Hundred and Fifty Three Only) being the differential IGST payable by the importer @ 18% under SI.No.453 of Schedule-III of Notification No.01/2017-IGST as detailed in Table-I under the provisions of Section 28(8) of Customs Act, 1962 along with interest under Section 28AA, *ibid*.

3. I confirm the amount demanded for interest at applicable rates, on amount demanded at SI.No.2 above under Sec 28AA of the Customs Act, 1962.

4. I impose penalty equal to duty demanded at (2) above and interest payable on the same under Section 114(A) of the Customs Act, 1962.”

3. A reading of the impugned order indicates that the submission of the petitioner has been considered and appropriate decision has been arrived by the respondents rejecting the objection of the petitioner.



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Therefore, the invocation of Article 226 of the Constitution of India is not available to the petitioner. The petitioner has to file a Statutory Appeal before the Appellate Commissioner under Section 128(1) of the Customs Act, 1962.

4. Under these circumstances, this Writ Petition is dismissed. However, liberty is given to the petitioner to file a Statutory Appeal before the Commissioner of Customs (Appeals) within a period of 30 days from the date of receipt of a copy of this order. In case, such appeal is filed, the Appellate Commissioner shall consider the same and dispose it on merits and in accordance with law.

5. This Writ Petition stands dismissed with the above observations. No costs. Consequently, connected writ miscellaneous petition is closed.

18.11.2024

Index:Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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