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W.P.No.37708 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.37708 of 2024

and

W.M.P.No.40764 of 2024

Mrs.Mohana Ganesh

..Petitioner

Vs.

Assistant Commissioner of Customs,
Office of the Principal Commissioner of Customs
(Chennai VII),

New Custom House,
Meenambakkam,
Chennai-600 027

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the respondent vide order in original No.2921/2024-AIR dated 23.09.2024, quash the same, and to consequently direct the respondent to take on record the documents filed by the petitioner vide Letter dated 07.02.2024, submitted in person on 09.02.2024 and pass orders.

For Petitioner : Mr.Niranjan Rajagopalan
for G.R.Associates

For Respondent : Mr.Rajnish Pathiyil
Senior Standing Counsel



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ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 23.09.2024 on the limited ground that the impugned order proceeds on the erroneous premise that despite being provided several opportunities, the petitioner has not responded to produce evidence for realisation of export proceeds in respect of certain shipping bills which form the subject matter of the adjudication.

2. It is submitted by the learned counsel for the petitioner that the above reasoning shows gross non application of mind to the material on record inasmuch as the petitioner vide letter dated 07.02.2024 had submitted negative statement for AD Code No 0260223, obtained from the chartered accountant for the period 01.01.2010 to 30.06.2010 and 01.07.2010 to 31.12.2010. The copies of the certificate of chartered accountant were also annexed along with the said letter. However, the impugned order proceeds on the premise that the petitioner has not even responded thus suffers from non application of mind.



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3. On this being pointed out, the learned Senior Standing Counsel for the respondent would submit that they would consider the material which has been produced and pass orders afresh.

4. In view thereof, the impugned order dated 23.09.2024 is set aside. The respondent authority is directed to pass orders afresh, after taking into account the material on record and after affording the petitioner a reasonable opportunity of hearing.

5. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, WMP No.40764 of 2024 is closed.

19.12.2024

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
mrn



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To
Assistant Commissioner of Customs,
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MOHAMMED SHAFFIQ, J.

mrn

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