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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3128/2024

M/S TECMAX ELECTRONICS .....Petitioner

Through: Mr. Mayank Sharma, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) & ANR. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj and Mr. Subham Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

O R D E R

% **14.11.2024**

1. The petitioner has filed the present petition *inter alia* praying as under:

> *"Issue a Writ of Mandamus and/or any other appropriate Writ or order directing Ld. Respondents to allow inspection of the goods covered under Bill of Entry No. 6226399 dated 03.05.2018 on the terms and conditions as this Hon'ble Court may deem fit."*

2. The petitioner submits that the petitioner had imported goods described as "TECKMAX LED TV Model TEK-40" and had filed the Bill of Entry on 03.05.2018 (being Bill of Entry No. 6226399). The Custom Department was of the view that the petitioner had mis-declared the goods. Accordingly, on 31.07.2018, the Customs Department had seized the goods under Section 110 of the Customs Act, 1962 (hereafter *the Act*). Thereafter,

the petitioner requested for warehousing the goods under Section 49 of the Act, which was granted vide order dated 27.08.2018, however, the petitioner did not take any steps in this regard.

3. The Order-in-Original was passed by the adjudicating authority on 11.12.2018 and the value of the goods was re-determined @ USD 147.5 per unit instead of USD 66 per unit, which was declared by the petitioner. The goods were confiscated under Section 111(m) of the Act, however, they were allowed to be redeemed on payment of Redemption fine of ₹10,00,000/-. The differential duty was determined at ₹13,68,819/- and additionally, penalty of ₹1,30,000/- was imposed under Section 112(a)(ii) and penalty of ₹25,00,000/- was imposed under Section 114AA of the Act.

4. The petitioner's appeal against the Order-in-Original dated 11.12.2018 before the Commissioner of Customs (Appeals) was disposed of *vide* order dated 14.06.2019. The Order-in-Original was partially modified, inasmuch as redemption fine was reduced to ₹5,00,000/- and the penalty under Section 114AA of the Act was reduced to ₹13,68,819/-.

5. The petitioner appealed the order *vide* appeal dated 14.06.2019 before the learned Customs, Excise & Service Tax Appellate Tribunal (hereafter *CESTAT*). The petitioner partially succeeded in terms of the order dated 30.09.2022, inasmuch as the penalty of ₹13,68,819/- imposed under Section 114AA of the Act, was set aside.

6. Thus, there is no dispute that the petitioner is entitled to release of the goods on payment of the duties and other amount as quantified and is sustained by the learned CESTAT.

7. Mr. Ojha, learned counsel for the Revenue also submits that the Revenue has no objection for release of the goods in question subject to the

amounts as determined as well as any other charges as payable are paid by the petitioner.

8. The present petition is confined to the petitioner's seeking inspection of the said goods. The Revenue has filed a counter affidavit responding to the averments made in the present petition. However, we do not find any reason why inspection of the goods ought to be denied to the petitioner at this stage.

9. Accordingly, the petition is allowed. The petitioner may approach the concerned officer for inspection of the goods. The containers in which the goods are kept shall be de-sealed and the petitioner would be afforded an opportunity to inspect the same. The container shall be resealed after the inspection is complete.

10. Petition is disposed of, in above terms.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 14, 2024
akc

Click here to check corrigendum, if any