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

\+ **W.P.(C) 16655/2024 & CM APPL. 70444/2024**

M/S. ADVANTEK FUEL SYSTEMS PVT. LTD.

.....Petitioner

Through: Mr Priyadarshi Manish, Ms Anjali Jha Manish, Mr Jatin Gaur and Mr Aman Ahulwalia, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr Ranjeev Khatana, CGSPC for UOI.
Mr Aditya Singla, SSC, Mr Ritwik Saha, Mr Rudresh Akshay Sarin, and Ms Medha, Advocates for R2 to R4.

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

O R D E R

% **03.12.2024**

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

> "(a) Issue a writ, order or direction in the nature of certiorari to set aside the inquiry conducted by the office of Commissioner of Customs (Preventive), New Customs House, New Delhi, in file bearing No.VIII(SB)10/Cus.Prev./Gr.IIIB/21/2023-24/ Part -I [Annexure P-1], as the same is not permissible in law as well as with respect to facts and circumstances of the case; and/or
> (b) Issue a writ, order or direction in the nature of mandamus to not collect duty without issuing the Show Cause Notice;
> (c) Grant cost of the petition;"

2. It is the case of the petitioner that it has been importing goods described as “self-adhesive plates for film reflective products” and has been rightly classifying the same under the Customs Tariff Heading (CTH) 39199090. The petitioner claims that it has been regularly importing the said goods since September, 2018 from a foreign supplier named M/s. Reflomax Company Ltd., Korea against the preferential certificate of origin issued under Korea India Comprehensive Economic Partnership Agreement (CEPA). The petitioner has also claimed an exemption of basic Custom duty under serial No.332 of notification No. 152/2009-Cus. dated 31.12.2009 and declared the goods under the said heading.

3. The petitioner claims that no enquiry in respect of the classification of the goods in question can now be entertained by the department as the same was the subject matter of a show cause notice dated 05.12.2020 (hereafter *the SCN*) in respect of the goods imported during the period from October, 2018 to February, 2000. He submits that the SCN was preceded by a pre-consultation proceedings where the issues were crystalised. He submits that thereafter, the Bill of Entries submitted in respect of the goods that were imported, were accepted. Therefore, the issue regarding classification of goods in question must be considered as concluded. He also submits that the Custom Authorities are now estopped from examining any issue regarding the classification of the goods in question.

4. At the outset, Mr Singla, the learned counsel appearing for the Customs, states that the enquiry in the present case is not concerned with the goods imported during the period from October, 2018 to February, 2020. He states, on instructions, that the Custom Authorities are not intending to take up any issue in respect of those goods imported during the period from

October, 2018 to February, 2020. He, however, submits that the Custom Authorities cannot be prevented from examining any issue regarding the import of current consignment of goods.

5. We find merits in the contentions advanced by Mr. Singla.

6. The enquiry is being conducted by the Customs Authorities cannot be interdicted.

7. The contention that the Custom Authorities are estopped from examining any consignment on account of the SCN dated 05.12.2020, which admittedly was in respect of the goods imported during the period October, 2018 to February, 2020, is unmerited. The examination of Bill of Entry cannot be precluded on the principle of estoppel on account of Bills of Entry filed earlier.

8. It is also material to note that no order was passed in respect of the SCN which could be considered as dispositive of the issue regarding classification of the goods in question.

9. In view of the above, the petition is, accordingly, dismissed. Pending application also stands disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

DECEMBER 03, 2024

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Click here to check corrigendum, if any