IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.M.A.No. 792 of 2007

Commissioner of Customs (Exports),
Customs House,
Chennai – 1. .. Appellant

vs

1.M/s. V.S.Exim (Pvt) Ltd.,
4/216, M.G.R. Road,
Palavakkam, Chennai – 41.

2.Customs Excise & Service Tax Appellate Tribunal,
South Zonal Bench,
Shastri Bhawan Annexe,
I Floor, 26, Haddows Road,
Chennai – 6. .. Respondents

Prayer : Appeal filed under Section 130 of the Customs Act, 1962 against Final Order No. 755 of 2006 dated 18.08.2006, on the file of CESTAT, South Zone Bench, Chennai.

For Appellant	:	Mr.K.S.Ramaswamy Senior Standing Counsel
For Respondents	:	R1-Left R2 - Tribunal

JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

The substantial questions of law that have been admitted on 16.04.2007 are as follows:-

> *"(i) Whether the Tribunal is right to consider that the provisions of the Customs Act or the explanatory notes on the Harmonized systems of Nomenclature (HSN) cannot be relied upon to determine the scope of the various entries under the Schedule of the Agricultural Produce Cess Act, 1940?*
> *(ii) Whether the Tribunal is right in not considering the issue that there cannot be any distinction with regard to definition and classification of fish and prawns / shrimps under the provisions of the Customs Tariff Act, 1975, the Agricultural Produce Cess Act, 1940 and the marine Products Export Development Authority Act, 1972?"*

2. Notice has not been served on the respondent/assessee. However, that may not be hold us up from passing orders for the reason that the issue that arises for resolution has been decided in favour of the assessee by a judgment of the Supreme Court in the case of *The Commissioner of Customs, T.Nadu v M/s. Edhayam Frozen Foods and Ors* [Civil Appeal No(s) 3047-3083 of 2012 dated 11.08.2022].

3. One of us (Anita Sumanth,J) has also had occasion to consider a similar matter in the case of *Commissioner of Customs (Export) v M/s. Sri Sai Sea Food, G4 Jayaprada Apartment, Visakapatnam and others* [2024:MHC:3733] involving the same questions of law, ultimately deciding the matter in favour of the assessee.

4. In light of the above, there is no merit in this civil miscellaneous appeal and the same is dismissed. No costs.

[A.S.M., J] [N.S., J]
25.06.2025

Index:Yes/No
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

ssm

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