IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.12.2025
Coram
The Honourable **Mr.Justice Abdul Quddhose**

W.P.No.959 of 2025
and
W.M.P.Nos.1166 & 1167 of 2025

M/s. Cutwell Abrasives Pvt. Ltd.,
Rep. by its Director, Shri Suresh Babu Sudhakar ...Petitioner

Vs.

1. The Commissioner of Customs,
   Chennai II Commissionerate,
   Customs House, 60, Rajaji Salai,
   Chennai – 600 001.

2. The Deputy Commissioner of Customs,
   (Group 2) Chennai II Commissionerate,
   Customs House, 60, Rajaji Salai,
   Chennai – 600 001. ...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the second respondent in and connected with Order-in-Original No.41/2023 dated 28.03.2023 in F.No.GEN/ADJ/DC/225/2023-Gr.2 insofar as it sustains penalty of Rs.4,54,900/- under Section 114A of the Customs Act, 1962 and redemption fine of Rs.50,000/- under Section 125(1) of the Customs Act, 1962 and to quash the same and to direct the respondents not to take coercive steps in terms of Section 142 of the Customs Act, 1962 pursuant to such order.

For Petitioner : Mr.B.Satish Sundar
For Respondents : Mr.T.Nalinathar
Junior Standing Counsel

Order

This Writ Petition has been filed challenging the Order-in-Original dated 28.03.2023 passed by the second respondent sustaining penalty of Rs.4,54,900/- on the petitioner under Section 114A of the Customs Act, 1962 and imposing redemption fine of Rs.50,000/- under Section 125(1) of the Customs Act, 1962.

2. The petitioner has challenged the Order-in-Original on the ground of violation of principles of natural justice.

3. Heard Mr.B.Satish Sundar, learned counsel for the petitioner and Mr.T.Nalinathar, learned Junior Standing Counsel for respondents and perused the materials placed on record.

4. Admittedly, the impugned order is an exparte order. The petitioner was not heard in the impugned proceedings, as seen from the impugned order. No personal hearing notices were also issued to the petitioner. The petitioner also contends that the address, to which, the impugned order was sent is to the old address of the petitioner. The petitioner has been imposed penalty of Rs.4,54,900/- under Section 114A of the Customs Act, 1962, which, according to the petitioner, is arbitrary and illegal. Since no opportunity of hearing was granted to the petitioner, in the impugned proceedings, which culminated in the passing of the Order-in-Original. The petitioner has challenged the same on the ground of violation of principles of natural justice.

5. Counter affidavit has been filed reiterating the contents of the impugned Order-in-Original.

6. This Court is not expressing any opinion on the merits of the petitioner's contention with regard to penalty imposed by the second respondent in the impugned Order-in-Original . Admittedly, no personal hearing notices were issued to the petitioner, as seen from the impugned Order-in-Original. As per the respondents' own Circular, three personal hearing notices will have to be issued to the assessee.(petitioner in this case), which exercise was not done in the present case.

7. Therefore, this Court is of the considered view that the impugned Order-in-Original has been passed in violation of principles of natural justice. The petitioner also contends before this Court that the impugned Order-in-Original was sent to their old address, as they claim to have shifted their place of business. All these factors, makes this Court to come to the conclusion that the impugned Order-in-Original has been passed in violation of principles of natural justice as no opportunity of personal hearing was granted to the petitioner before passing the same.

8. In view of the above conclusion arrived at by this Court, the impugned Order-in-Original has to be quashed and the matter has to be remanded to the very same respondent (viz, second respondent herein) for fresh consideration, on merits and in accordance with law, within a time frame to be fixed by this Court.

9. Accordingly, this Court passes the following order:-

i) The impugned Order-in-Original dated 28.03.2023 passed by the second respondent is hereby quashed;

ii) The matter is remanded to the very same respondent, (viz. second respondent herein) for fresh consideration.

and

iii) The second respondent shall afford an opportunity of personal hearing to the petitioner in accordance with the Circular issued by Central Board of Excise and Customs and after hearing the petitioner's objections and giving due considerations to the same, they shall pass final orders on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.

10. This Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.12.2025

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Index : yes/no
Neutral Citation : yes/no
To

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   Chennai – 600 001.

2. The Deputy Commissioner of Customs,
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Abdul Quddhose,J.,

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