IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 16240 of 2021

M/s. Compuage Infocom Ltd.,
Rep by its Import Manager,
Mr.Ashish Patel, No.87,Annai
Auxillium Warehouse, GNT Road,
Ponniammanmedu, Madhavaram
Chennai-600110.

Petitioner(s)

Vs

1. The Deputy Commissioner of
Customs (GR.5A)
Custom House, 60 Rajaji salai,
Chennai-600 001.

2.The Additional Commissioner of
Customs (Gr.5A)
Custom House, 60 Rajaji salai,
Chennai-600 001.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Certiorarified Mandamus, to call for the records pertaining to impugned speaking order no.85355/ 2021 dated 19.7.2021 issued by the 1st respondent and quash the same and further direct the 1st Respondent to extend the benefit of Sl.No.1387 of Notification No.46/ 2011-Cus dated 1.6.2011 in respect of the CCTV Cameras and Sl.No.1377 of Notification No.46/2011 - Cus dated 1.6.2011 in respect of the Network video Recorder covered under bill of entry no.3657145 dated 21.4.202.

For Petitioner(s): Mr. Hari Radhakrishnan

For Respondent(s): Mr.Rajendran Raghavan
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 19.07.2021 and for a consequential direction to the 1st respondent to extend the benefit of Sl.No.1387 of Notification No.46/2011-Cus dated 01.06.2011 in respect of the CCTC cameras and Sl.No.1377 of Notification No.46/2011-Cus dated 01.06.2011 in respect of the Network Video Recorder covered under bill of entry No.3657145, dated 21.4.2021.

2.The case of the petitioner is that the subject goods *viz.*, the CCTV cameras covered under bill of entry dated 21.4.2021, is exempted from payment of customs duty. However, under the impugned order, the same has been rejected, as according to the 1st respondent, self-assessment done by the petitioner under Section 17(1) of the Customs Act, 1962 with regard to the classification of the subject goods is improper.

3.The petitioner has challenged the impugned order primarily on the ground it is in violation of the principles of natural justice since the reply that was given by the petitioner on 07.5.2021 was not even considered and the petitioner was not afforded an opportunity of hearing in this case.

4.The respondents have filed a counter. The respondents have taken a stand that there has been a mis declaration and at paragraph 11 of the counter affidavit it has been stated as follows:

> *"11.I submit that regards to Ground J raised by the Petitioner the HS code for the goods declared as Network vide recorder in the ASEAN-India Certificate of Origin bearing Reference No.VH-IN 21/01/07994 dated 05.04.2021 is 85219010 whereas the Petitioner declared the goods under 85219090. Therefore, the benefit of Sl.No.1377(1) of Notification No.46/2011-Cus dated 01.06.2011 cannot be availed by the Petitioner. Hence, Ground J is not maintainable and ought to be rejected.*

5.Accordingly, the respondents have sought for the dismissal of the writ petition.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.The petitioner had classified CCTV under CTH85258010 which was examined by the audit and it was found that it ought to have been classified under CTH85258090. In this regard, the petitioner had filed an appeal before the Customs Excise & Service Tax Appellate Tribunal [CESTAT] against the order passed by the Commissioner of Customs and the CESTAT had rejected the claim made by the petitioner and held that the classification under CTH 85258090 is in order. The same issue has been put against the petitioner with respect to the present assessment also covered under the bill of entry dated 21.04.2021. In view of the above, re-assessment bill of entry dated 21.4.2021 was issued. On receipt of the same, the petitioner gave a reply dated 07.5.2021. In this reply, the petitioner apart from defending themselves with respect to the ground of misclassification, has also raised a ground that the present shipment originated from Vietnam and hence the petitioner is entitled for the exemption provided under Customs Notification No.46/11 (Sl.No.1387(1) under the ASEAN-India Free Trade Agreement. The 1st respondent while passing the impugned order has taken into consideration only the earlier order that was passed by CESTAT where the ground relating to classification of goods was held in favour of the Department. However, the 1st respondent has not taken into consideration the exemption claimed by the petitioner under the ASEAN-India Free Trade Agreement.

8.The specific ground that has been raised by the petitioner is that the facts before the CESTAT was completely different from the facts in the present case since that was a case which involved the CCTV cameras imported from the republic of Korea which was not covered by any exemption and whereas in the case in hand, the shipment originated from Vietnam and the petitioner was claiming for the exemption under the ASEAN-India Free Trade Agreement which was reflected in the customs notification. In order to substantiate the same, the learned counsel for the petitioner also placed reliance upon the certificate of origin that was issued in Vietnam dated 05.4.2021.

9.The 1st respondent ought to have dealt with this issue that was raised by the petitioner before passing final orders. If there was any clarification, the 1st respondent could have sought for the clarification from the petitioner. Since this procedure has not been followed, this Court holds that the impugned proceedings of the 1st respondent suffers from violation of the principles of natural justice.

10.In the light of the above discussion, the impugned proceedings of the 1st respondent dated 19.7.2021, is hereby quashed and the matter is remanded back to the file of the 1st respondent. The 1st respondent shall take into account the ground that was raised by the petitioner in the reply dated 07.5.2021 and deal with the same in accordance with law. The petitioner shall also be given an opportunity of hearing before the final orders are passed. This process shall be completed by the 1st respondent as expeditiously as possible.

11.In the result, this writ petition is allowed in the above terms. No costs.

26-09-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
KP

To

1.The Deputy Commissioner of
Customs (GR.5A)
Custom House, 60 Rajaji salai,
Chennai-600 001

2.The Additional commissioner of
Customs (Gr.5A)
Custom House, 60 Rajaji salai,
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N.ANAND VENKATESH J.

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