IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. Nos.17566 & 17569 of 2022 and
W.M.P. Nos.16845 and 16841 of 2022

M/s.Chandrakala Associates,
represented by its Proprietrix
M.Chandrakala .. Petitioner in both cases

vs.

The Deputy Commissioner of Customs,
(Group 3), Custom House,
No.60, Rajaji Salai,
Chennai - 600 001. .. Respondent in both cases

Prayer in W.P. No.17566 of 2022: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to strictly abide and implement the Advance Ruling No.CAAR/Mum/ARC/36/2021 dated 24.09.2021 in respect of the product 'clear float glass with absorbent layer' imported by the petitioner from Malaysia.

Prayer in W.P. No.17569 of 2022: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to finalise the bill of entry No.8674095 dated 13.05.2022 by classifying the goods under CTH 7005 1019 and extending the benefit of Notification No.46/2011-Cus., dated 01.06.2011.

For Petitioner in both cases : Mr.Hari Radhakrishnan

For Respondent in both cases : Ms.Anu Ganesan,
Junior Panel Counsel

COMMON ORDER

The petitioner in W.P. No.17569 of 2022 claims benefit of exemption Notification No.46/11-Cus dated 01.06.2011. However, the said benefit has been denied to the petitioner as seen from the provisional assessment made by the respondent.

2.The petitioner has obtained clearance of the imported goods by furnishing bank guarantee since the respondent had refused to grant benefit of extension of Notification No.46/11-Cus dated 01.06.2011 to the petitioner. Till date, no final order has been passed.

3.Learned counsel for the petitioner would submit that the petitioner claims that in respect of the very same goods, another importer had approached CESTAT, South Zonal Bench, Chennai claiming benefit of the very same Notification. Learned counsel for the petitioner has also placed on record before this Court an order of the Tribunal passed in the case of **Navakar Impex Pvt. Ltd. vs. Commissioner of Customs,**

Chennai reported in (2024) 25 Centax 66 (Tri.-Mad) and would submit that in respect of the very same goods, another importer was granted the benefit under the very same Notification for which benefit is sought for by the petitioner herein.

4.Learned counsel for the petitioner undertakes to give a fresh representation to the respondent claiming benefit of exemption Notification No.46/2011-Cus dated 01.06.2011 by citing the CESTAT order, referred to supra and on such representation being given, a direction may be issued to the respondent to consider the said representation, on merits and in accordance with law, within a time frame to be fixed by this Court.

5.On the other hand, the learned Junior Panel Counsel appearing for the respondent, on instructions would submit that in respect of the very same goods as to whether the benefit can be granted or not, an appeal is pending before the Hon'ble Supreme Court, challenging the order of the Tribunal, relied upon by the learned counsel for the petitioner.

6.Learned counsel for the petitioner would submit that as on date, no stay has been granted by the Hon'ble Supreme Court and therefore, there is no impediment for the respondent to consider the petitioner's representation, on merits and in accordance with law.

7.This Court, after carefully considering the respective submissions made by both the counsels, is of the view that no prejudice would be caused to the respondent if the petitioner is allowed to give a fresh representation seeking for benefit of Notification No.46/2011-Cus dated 01.06.2011 in respect of their imported goods, which were provisionally assessed and if a direction is issued to the respondent to consider the petitioner's representation, on merits and in accordance with law within a time frame to be fixed by this Court.

8.For the foregoing reasons, this Court directs the petitioner to submit a fresh representation to the respondent seeking for benefit of Notification No.46/2011-Cus dated 01.06.2011 in respect of the imported goods through Bill of Entry No.8674095 dated 13.05.2022, in the light of the order passed by the CESTAT, South Zonal Bench, Chennai in the case of **Navakar Impex Pvt. Ltd. vs. Commissioner of**

Customs, Chennai reported in (2024) 25 Centax 66 (Tri.-Mad) within a period of two weeks from the date of receipt of a copy of this order. On receipt of such a representation, the respondent shall pass final orders, on merits and in accordance with law, after giving due consideration to the order of the Tribunal, relied upon by the petitioner, within a period of eight weeks thereafter.

9.This Court is not expressing any opinion on the merits of the petitioner's contention. It is for the respondent to consider the same, on merits. The respondent is also permitted to give one personal hearing to the petitioner before passing final order. Accordingly, W.P. No.17569 of 2022 is disposed of.

10.In view of the order passed in W.P. No.17569 of 2022, learned counsel for the petitioner seeks permission of this Court to withdraw the connected writ petition in W.P. No.17566 of 2022 and he has also made an endorsement to that effect in the court bundle. Accordingly, W.P.

ABDUL QUDDHOSE, J.

vga

No.17566 of 2022 is dismissed as withdrawn. No costs. Consequently, connected W.M.Ps are closed.

07.02.2025

Index: Yes/No
vga

To

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