



W.P.No.23279 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23279 of 2021

and

W.M.P.No.24554 of 2021

KSM Metullurigal Ltd,
(Formerly JSM Copper Recycling Ltd)
Rep by its Director,
63 Kathivakkam High Road,
Chennai – 600 021.

... Petitioner

Vs.

1.The Commissioner of Customs,
Customs House,
16 Rajaji Salai,
Chennai – 600 001.

2.The Deputy Commissioner of Customs (EPD),
Chennai – IV Commissionerate,
Custom House,
16 Rajaji Salai,
Chennai – 600 001.

3.Tamil Nadu Mercantile Bank,
Rep by its Manager,
53 (20) GA Road,
Old Washermanpet,
Chennai – 600 021.

... Respondents



W.P.No.23279 of 2021

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent herein made in Order-in-Original No.85901 of 2021 dated 07.09.2021 and quash the same, consequently directing the 1st and 2nd respondents herein to adjust the payment already made by the petitioner herein towards the cost recovery charges payable by the petitioner.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mr.S.Gurumoorthy
Senior Panel Counsel
for R1 & R2
Mr.V.Chandrasekaran
for R3

ORDER

In this writ petition, the petitioner has challenged the impugned Order-in-Original No.85901/2021 dated 07.09.2021 issued on 09.09.2021. By the impugned order, the petitioner has been asked to pay a sum of Rs.6,51,217/- towards cost recovery charges for the period between 12.03.2001 to 31.12.2004 and that an amount of Rs.1,23,012/- paid by the petitioner was appropriated towards the aforesaid cost recovery charges of Rs.6,51,217/-. The impugned order precedes a



W.P.No.23279 of 2021

notice dated 07.05.2021, wherein, the petitioner was permitted to come for a personal hearing on 03.06.2021 and was also allowed to peruse documents.

2. It is the specific case of the petitioner is that pursuant to the perusal of the documents maintained by the respondent/department, the cost recovery charges to be paid by the petitioner is only Rs.46,000/- for the aforesaid period as the amount to be collected from the petitioner was to be on pro-rata basis as the officers who were deputed in the bonded warehouse of the petitioner were overseeing several other bonded warehouse during the period.

3. In this connection, the petitioner has also filed a written submission dated 17.06.2021 which has been acknowledged by the respondent on 21.06.2021, which has ultimately culminated in the impugned order, wherein, the above demand has been confirmed. A reading of the impugned order indicates that the written submission of the petitioner has been merely re-produced, but has not been discussed.



W.P.No.23279 of 2021

WEB COPY

4. The further specific case of the petitioner is that the petitioner is liable to pay only Rs.46,000/- and not Rs.6,51,217/-. This aspect ought to have been discussed in the impugned order. The impugned order merely reproduces the content of Board Circular dated 01.04.1991 bearing reference F.No.A-11018/9/91 – Ad.IV.

5. In my view, the impugned order suffers from non application of mind, as it has no semblance of any reasonings and any discussion on the written submission of the petitioner. Therefore, I am inclined to quash the impugned order and remit the case back to the 2nd respondent to pass a fresh order after giving a clear findings as to why the stand of the petitioner in the written submission dated 17.06.2021 should not be accepted or rejected. This exercise may be carried out by the respondents within a period of three months from the date of receipt of a copy of this order. Needless to state, the petitioner shall be heard before final orders are passed.



W.P.No.23279 of 2021

WEB COPY

6. This Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

30.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

jas

To:

- 1.The Commissioner of Customs,
Customs House,
16 Rajaji Salai,
Chennai – 600 001.
- 2.The Deputy Commissioner of Customs (EPD),
Chennai – IV Commissionerate,
Custom House,
16 Rajaji Salai,
Chennai – 600 001.
- 3.Tamil Nadu Mercantile Bank,
Rep by its Manager,
53 (20) GA Road,
Old Washermanpet,
Chennai – 600 021.



WEB COPY



W.P.No.23279 of 2021

C.SARAVANAN, J.

jas

W.P.No.23279 of 2021

and

W.M.P.No.24554 of 2021

30.01.2025