IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

W.P. No. 35993 of 2024
and
W.M.P. Nos. 38881 and 38882 of 2024

Ms.Rasathi … Petitioner

-vs-

The Additional Commissioner
O/o. The Commissioner of Customs
Chennai-II (Import) Commissionerate
Custom House, No.60, Rajaji Salai
Chennai-600001. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned Order-in-Original No.10556/2024 dated 25.03.2024 passed by the respondent and quash the same.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.Su.Srinivasan, SC-NHAI

O R D E R

This writ petition has been filed challenging the impugned Order-in-Original dated 25.03.2024 passed by the respondent confirming the payment proposed in the show-cause notice No.20/2023 dated 19.10.2023. Under the impugned Order-in-Original dated 25.03.2024, the respondent has held that the special goods imported by the petitioner does not contain 'Battery, Charger, Power Control Unit, Energy Monitor, Contractor & Electric Compressor and therefore, do not contain all parts and components to assemble electric motor vehicles and therefore, the imported goods fall under Sr.No.531A(1)(a) of the Notification No.50/2017-Customs, dated 30.06.2017, and attracts customs duty at 50% and on account of the said findings under the impugned Order-in-Original dated 25.03.2024, the petitioner has been called upon to pay the differential duty of Rs.12,66,236/-.

2. The learned counsel for the petitioner would submit that by total non-application of mind to the amended Notification No.2/2022 dated 01.02.2022 passed by the Ministry of Finance that even in cases where the imported goods does not contain Battery and Tyre, the importer is entitled for concessional customs duty at 15%, the impugned order-in-original has been passed. He would submit that pertaining to the same goods, the Commissioner of Customs in various other jurisdiction in India have consistently held that the importer is entitled for concessional rate of customs duty at 15%. In support of the said contention, the petitioner has also filed orders passed by the Commissioner of Customs, Tughlakabad, New Delhi dated 18.10.2023.

3. The learned counsel for the petitioner would submit that in the said order, the Commissioner of Customs, Tughlakabad, New Delhi, has referred to other decisions as well, which makes it clear that the goods of similar nature which have been imported by the petitioner is entitled for concessional rate of import duty at 15%. Therefore, he would submit that the respondent under the impugned Order-in-Original dated 25.03.2024, by the total non-application of mind to the said fact, has held that the petitioner is not entitled for the concessional rate of duty and has erroneously called upon the petitioner to pay the differential duty.

4. As seen from the amended notification No.2/2022 issued by the Ministry of Finance, Government of India, it has been classified that even if some parts are missing, the importer is entitled to get the benefit of concessional duty as per the Notification No.50/2017 issued by the Ministry of Finance. In the impugned Order-in-Original dated 25.03.2024, the clarification given by the Ministry of Finance through the Notification No.2/2022 has not been considered. The decisions relied upon by the learned counsel for the petitioner rendered by the Commissioner of Customs in various other jurisdiction has also not been considered. In those decisions, it has been held

that even if some parts of the vehicle have not been imported even then the importer is entitled to the benefit of the concessional customs duty. In the counter filed before this Court, the respondent has stated that since there is an alternate appellate remedy available to the petitioner, this writ petition is not maintainable.

5. However, this Court, after giving due consideration to the fact that the contentions of the petitioners, that have been raised before this Court, have not been considered and only by non-application of mind, the impugned Order-in-Original dated 25.03.2024 came to be passed, the present writ petition is maintainable. Under the impugned Order-in-Original dated 25.03.2024, the amended notification, which has clarified that the importers are entitled for the concessional rate of duty even in cases where they have imported a vehicle with some parts missing, has not been considered. The rights of the petitioner should not be defeated by non-consideration of the essential factors for deciding as to whether the petitioner is entitled for payment of concessional duty or not.

6. For the foregoing reasons, this Court is of the considered view that the impugned Order-in-Original dated 25.03.2024 has been passed by total

non-application of mind to the contentions raised by the petitioner in this writ petition and therefore, the impugned Order-in-Original dated 25.03.2024 has to be quashed and the matter remanded back to the very same respondent for fresh consideration on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner and by adhering to the principles of natural justice. The respondent shall pass final orders within a period of eight(8) weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed accordingly. Consequently, connected Miscellaneous Petitions are closed. No costs.

27.06.2025

Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order
NCC : Yes / No

Maya

To

The Additional Commissioner
O/o. The Commissioner of Customs
Chennai-II (Import) Commissionerate
Custom House, No.60, Rajaji Salai, Chennai-600001.

ABDUL QUDDHOSE, J.

Maya

W.P. No. 35993 of 2024

Dated : 27.06.2025