IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-12-2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

WP No. 37599 of 2025
AND
WMP NO. 42076 OF 2025

1. M/s.Harris And Menuk Chemicals
Pvt Ltd
Represented By Its Mr. Saravanan.P.
No.6/15, Santhosam Salai,
Ayanambakkam, Chennai-600 095

Petitioner(s)

Vs

1. The Assistant Commissioner Of
Customs
Group-2, Custom House, No.60, Rajaji
Salai, Chennai-600 001

Respondent(s)

PRAYER

to call for the records pertaining to the impugned order dated 24.02.2025 issued in DIN No.20250273MX00008185E8 by the Respondent in quash the same and further direct the respondent to amend the bill entry No.6650504 dated 13.11.2024 as per the application dated 19.06.2025

For Petitioner(s): M/s. G.Derrick Sam

For Respondent(s): M/s.Anu Ganesh
Junior Panel Counsel

ORDER

This writ petition has been filed, challenging the impugned order dated 24.02.2025 passed by the respondent, rejecting the petitioner's request for cancellation of OOC and inclusion of different invoice by amending the Bill of Entry as per the provisions of Section 149 of the Customs Act, 1962.

2. The petitioner had sought for amendment of the subject Bill of Entry, since according to the petitioner, erroneously, the petitioner had disclosed a wrong invoice number. However, the request of the petitioner for amendment of the Bill of Entry as per Section 149 of the Customs Act, 1962 has been rejected under the impugned order on the ground that such request cannot be entertained since the subject invoice was not submitted by the petitioner with the respondent earlier.

3. The learned counsel for the petitioner drew the attention of this Court

to Section 149 of the Customs Act, 1962 and would submit that the first proviso to the said Section enables the petitioner to seek amendment of the Bill of Entry as the subject invoice was very much available with the petitioner at the time of submission of the Bill of Entry.

4. In support of his contention, the learned counsel for the petitioner also drew the attention of this Court to a decision rendered by the learned Single Judge of this Court in the case of ***Hindustan Unilever Ltd. Vs. Union of India reported in 2021 (377) E.L.T. 4 (Mad.).***

5. The Madras High Court in the aforesaid decision, while interpreting the first proviso to Section 149 of the Customs Act, 1962, has observed that the phrase "on record" found in the first proviso to Section 149 would mean any documents that were available with the petitioner that were contemporaneous with imports must also be taken into consideration, to decide the question of existence of error. Therefore, he would submit that since the subject invoice was very much available with the petitioner at the time when the imports were made,

the petitioner is entitled to seek for amendment of a Bill of Entry.

6. A counter has been filed by the respondent, reiterating the contents of the impugned order. They would submit that the subject invoice was not submitted by the petitioner with the respondent while filing the Bill of Entry and therefore, the error cannot be rectified under Section 149 of the Customs Act, 1962.

7. The learned counsel for the petitioner would submit that the petitioner is willing to give a fresh representation to the respondent along with the relevant invoice and contemporaneous documents for the purpose of seeking amendment of the Bill of Entry as per the provisions of Section 149 of the Customs Act, 1962.

8. The learned counsel for the respondent would also submit, on instructions, that the respondent is willing to consider the said representation on

merits and in accordance with law after giving due consideration to the decision relied upon by the learned counsel for the petitioner referred to supra.

9. This Court is not expressing any opinion on the merits of the petitioner's representation.

10. Accordingly, this writ petition is disposed of by directing the petitioner to submit a fresh representation to the respondent, enclosing the subject invoices and contemporaneous documents for the purpose of seeking amendment of the Bill of Entry pertaining to Bill of Entry No.6650504 dated 13.11.2024 within a period of one week from the date of receipt of a copy of this order. On receipt of the said representation, the respondent shall pass final orders on merits and in accordance with law on the said representation after giving due consideration to the decision relied upon by the learned counsel for the petitioner in the case of ***Hindustan Unilever Ltd. Vs. Union of India reported in 2021 (377) E.L.T. 4 (Mad.)*** within a period of four weeks thereafter, after affording one personal hearing to the petitioner. No Costs. Consequently,

connected miscellaneous petition is closed.

01-12-2025

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

To

1.The Assistant Commissioner Of Customs
Group-2, Custom House, No.60, Rajaji Salai, Chennai-600 001

ABDUL QUDDHOSE J.

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