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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4010 of 2025

and WMP (MD) Nos.2889 and 2890 of 2025

Madura Coats Pvt. Ltd.,

Rep. by its Manager – Legal

C.Anubargavi : Petitioner

Vs.

1. Union of India,
Rep. by its Secretary,
Ministry of Finance (Department of Revenue),
No.137, North Block,
New Delhi 110001.

2. The Principal Commissioner /,
Commissioner of Customs, Customs House,
New Harbour Estate,
Tuticorin 628 004.

3. The Directorate of Revenue Intelligence,
Rep. by its Additional Director General,
Kolkata Zonal Unit, 8, Ho-Chi-Minh Sarani,
Kolkata 700001.

4. The Directorate General of Foreign Trade,
Rep. by its Director General of Foreign Trade,
North Block, New Delhi 110001. : Respondents

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PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in C.No.VIII/10/46/2019-ADJN dated 30.09.2024 and quash the same on the ground of lack of jurisdiction, limitation and violation of Constitutional provision and consequently direct the 2nd respondent to drop all further proceedings initiated against the petitioner through the impugned proceedings in C.No.VIII/10/46/2019-ADJN dated 30.09.2024.

For Petitioner : Mr. G.Ramanathan

For Respondents : Mr.K.Govindarajan
DSGI for R1, R3 & R4
Mr.R.Gowrishankar
for R2

ORDER

This Writ Petition is filed by the petitioner challenging the final order dated 30.09.2024, passed by the second respondent in C.No.VIII/10/46/2019-ADJN and for a consequential direction to the second respondent to drop all further proceedings initiated against the petitioner.

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2. The case of the petitioner is that the petitioner, a registered company under the Indian Companies Act with manufacturing units in Bangalore, Madurai, Tuticorin and Ambasamudram, is a registered importer with IEC Code No.0488008247. The petitioner imported polyester filament yarn and staple fibre through Tuticorin Port under advance authorizations, availing exemptions from IGST and compensation cess as per the Customs Tariff Act, 1975 and fulfilling export obligations. On 02.09.2019, the third respondent issued a show cause notice demanding customs duty of Rs.10,14,41,560/- and penalties for alleged non-compliance. The petitioner, having imported under advance authorizations, contested the demand, citing practical difficulties in strict compliance with export obligations. A personal hearing was held and the petitioner's statement under Section 108 of the Customs Act was recorded. The petitioner filed Writ Petitions in W.P.(MD) Nos.22222 and 22246 of 2019, challenging the show cause notice. The Court recorded the third respondent's undertaking not to take coercive steps and these petitions are pending. Meanwhile, the first respondent issued a new notification on 10.01.2019, withdrawing the pre-import condition, which the 3rd respondent failed to disclose to the Court. As the pre-import

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condition was withdrawn, the third respondent no longer had the right to proceed against the petitioner. On 30.09.2024, the impugned order was passed by the second respondent levying penalty on the petitioner under Section 112(a) of the Customs Act, 1962. Aggrieved by the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that the impugned order passed by the second respondent is without jurisdiction, as it was issued arbitrarily based on instructions from the third respondent, ignoring the facts and legal provisions. In addition, the order was passed after expiry of the prescribed limitation period under the Customs Act, particularly, after withdrawal of the pre-import condition through Notification No.01/2019. The learned counsel further submitted that the second respondent also violated the petitioner’s constitutional rights by failing to consider the pending re-assessment process and therefore, the proceedings is liable to be quashed.

4. Per contra, the learned counsel for the second respondent submitted that the impugned order was issued in accordance with the Customs Act and all actions taken were in full compliance with the

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relevant legal provisions. Furthermore, the petitioner has an effective remedy of appeal under Section 129A of the Customs Act, 1962, against the impugned order.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. In the light of the submissions made, this Court finds that the petitioner has an adequate remedy of appeal available under Section 129A of the Customs Act, 1962, against the impugned order. As the petitioner has not exhausted this alternate remedy, this Court directs the petitioner to avail the appeal remedy before the appropriate appellate authority (CESTAT). This writ petition is, therefore, disposed of with liberty to the petitioner to pursue the appeal in accordance with law. Consequently, connected miscellaneous petitions are closed.

24.02.2025

Index : Yes / No
Internet : Yes / No

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<u>VIVEK KUMAR SINGH, J.</u>

PKN

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