BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.25264 of 2025 AND
W.M.P.(MD)Nos.19812 & 19815 of 2025

M/s.Pentagon Shipping Services,
No.3, 5/118, 6th Street, Caldwell Colony,
Tuticorin – 628 008,
Rep. by its Proprietor E.V.Subramanian ... Petitioner

Vs.

The Additional Commissioner of Customs,
O/o.the Commissioner of Customs,
Customs House, New Harbour Estate,
Tuticorin – 628 004. ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order-in-original TN-CUSTM-PRV-ADC-15/2025 dated 04.06.2025 passed by the respondent herein and to quash the same to the extent of order passed as against the petitioner at para 14(xii) of the impugned order, thereby imposing a penalty of Rs.50,00,000/- under Section 112(a) of the Customs Act, as the said impugned order is passed without jurisdiction and authority of law and in excess of the powers conferred with the respondent and also against the provisions of the

Customs Act and also against the various judicial pronouncements and also in clear violation to the principles of natural justice.

For Petitioner : Mr.S.Baskaran

For Respondent : Mr.N.Dilipkumar

* * *

ORDER

Heard both sides.

2. The writ petitioner is a licensed Customs broker. The petitioner had acted as a Customs broker for one importer. It appears that the importer had utilized the import code of some other persons and also misdeclared the value of the goods. The stand of the Department is that if the petitioner had been vigilant, the entire fraud would not have taken place. Hence, the notice was issued to the petitioner and the impugned order levying penalty came to be passed against the petitioner. Challenging the same, the present writ petition has been filed.

3. One of the main arguments advanced by the learned counsel for the writ petitioner is that for a mere failure to discharge one's function as a Customs broker, the petitioner could not have been levied with penalty under Section 112(a) of the Customs Act. He relied on the decision of Hon'ble Division Bench reported in ***2015 (320) E.L.T. 264 (Mad.) (Commissioner of Customs(Exports), Chennai Vs. I. Sahaya Edin Prabhu).*** This contention is no doubt attractive.

4. As rightly pointed out by the learned Standing counsel for the Department, the impugned order is directed not only against the petitioner but also against the others. In all probability, they would file an appeal and it would be more appropriate for the appellate authority to hear the cases together and give a disposal. Considering the special facts and circumstances of this case, the petitioner is exempted from making pre-deposit of 7½% under Section 129E of the Act. If the petitioner files such an appeal before the appellate authority within two weeks from the date of receipt of a copy of this order, it shall be entertained without reference to limitation. I make it clear that I have not gone into the merits of the

matter. All the contentions of both the parties are left open. This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

16.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

G.R.SWAMINATHAN,J.

PMU

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