
(2014) 10 MAD CK 0294

In the Madras High Court

Case No : Writ Petition No. 15916 of 2014

Amphenol Omniconnect India P. Ltd.

APPELLANT

Vs

Commr. of Cus. (AIR)

RESPONDENT

Date of Decision : 14-10-2014

Acts Referred:

Citation : (2014) 310 ELT 21

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Judgement

T.S. Sivagnanam, J.—The petitioner herein seeks for the issuance of writ of mandamus to direct the respondents to release the goods covered by bills of entry Nos. 4093170, dated 16-12-2013 and 4140947, dated 20-12-2013. The petitioner is a Private Limited Company engaged in the business of manufacture of electrical, electronic, fibre optic connectors, co-axial and flat ribbon cable, antenna and interconnect systems, etc. The petitioner filed the said bills of entry dated 20-12-2013 to clear the products imported from their group concern at France. The second respondent refused to permit the petitioner to clear the goods, stating that the goods imported were hazardous waste, in terms of Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008. The petitioner submitted several representation and since he was not favoured with any reply/permission, the petitioner has approached this Court.

2. The respondents have not filed any counter affidavit, but, they have given written instructions to the learned Standing Counsel for the respondents.

3. In the written instructions, the Department stated that the petitioner/importer have given two letters dated 3-1-2014 and 30-1-2014 stating that they would obtain appropriate clearance/No objection Certificated from the competent authority. Further, the Department has taken a stand that the petitioner is precluded from going into the merits of the Chartered Engineer's report and the case law cited by the petitioner applies only to Digital multifunction print and copier machines and not to the goods imported by the petitioner.

4. It is seen that the bills of entry were filed on 16-12-2013 and it is the specific case that these goods were imported from the group at France. Till date, the Department has not taken any action on the goods and for the first time, in the instructions given to the learned Standing Counsel, the Department takes a stand that the petitioner gave a letter in January, 2014, agreeing to obtain appropriate No Objection Certificate.

5. Be that as it may, for the past ten months, the Department has not taken any action, if according to the Department, the goods cannot be released for certain reasons, then, the same should be put to the petitioner in the appropriate Form in accordance with law. Without doing so, there is no justification for the respondents to retain the goods endlessly in their custody. At this stage, this Court is not inclined to make an observation as regards the stand taken by the respondents, as regards the nature of the Cargo. Accordingly, this Writ Petition is disposed of by directing the second respondent to take appropriate action in accordance with the provisions of the Customs Act, within a period of two weeks from the date of receipt of a copy of this order, so as to enable the petitioner to pursue further actions in the matter. No costs.