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(2016) 04 MAD CK 0154

In the Madras High Court

Case No : Writ Petition No. 3954 of 2016

Jai Hind Wire Rod Mills Ltd. APPELLANT

Vs

Additional Commr. of Cus., Chennai RESPONDENT

Date of Decision : 26-04-2016

Acts Referred:

Citation : (2016) 336 ELT 276

Hon'ble Judges : M. Duraiswamy, J.

Bench : Single Bench

Advocate : Hari Radhakrishnan, Advocate, for the Petitioner; A.P. Srinivas, Advocate, for the Respondent

Final Decision : Allowed

Judgement

M. Duraiswamy, J.—The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned letter dated 18-1-2016 of the 2nd respondent and to quash the same and to further direct the respondents to release the goods covered by bill of entry dated 6-8-2015 within a reasonable time.

2. It is the case of the petitioner that it is a regular importer of heavy melting steel scrap and in the course of their business, the petitioner had imported heavy melting steel scrap vide bill of entry dated 6-8-2015 and the goods were initially detained on the ground that hazardous items were being smuggled in the guise of heavy melting scrap. The goods were de-stuffed and subjected to 100% examination and found that the goods were as per the declaration made in the bill of entry. Despite the fact that the goods have been detained since 12-8-2015, the respondents have not released the goods in spite of the petitioner?s repeated requests.

3. According to the learned counsel for the petitioner under Section 110(2) of the Customs Act, when no notice in respect of the seizure is given under Clause (a) of Section 124 within six months of the seizure of the goods, the goods shall be

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returned to the person from whose possession they were seized.

4. In the counter filed by the respondents, it has been stated that during the course of business, it was found that as against the declared net weight of 246.56 metric tons, the actual weight of the imported cargo was found to be only 60.835 metric tons and also apart from the declared cargo viz., heavy melting scrap, there were 38 nos. of Global brand R-134a refrigerant empty cylinders, out of which, 10 cylinders were damaged. Further, in the counter, the respondents have stated that the respondents are investigating into the role of the Pre-shipment Inspection Agency M/s. Tubby Impex and the role of the steamer agent in the instant case. Further, the investigation was directed to be done in an expeditious manner.

5. Admittedly, the 1st respondent has not issued any notice under Section 124(a) of the Customs Act, hence, the goods have to be released under Section 110(2) of the Customs Act. Since the provisions of the Section 110(2) is clear that in the absence of any notice under Section 124(a) within six months from the date of seizure, the petitioner is entitled to get release of the goods.

6. In view of the provisions of Section 110(2) of the Customs Act, I am of the view that the 1st respondent should be directed to release the goods. In view of the same, the impugned order dated 18-1-2016 of the 2nd respondent is liable to be set aside. Accordingly, the same is set aside. The 1st respondent is directed to release the goods covered by the bill of entry dated 6-8-2015 within a period of two weeks from the date of receipt of a copy of this order.

7. With these observations, the writ petition is disposed of. No costs.

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