

2020-TIOL-464-HC-MAD-CUS

IN THE HIGH COURT OF MADRAS

Writ Petition No.4192 of 2020

M/s DAVINCI LEATHER PVT LTD
REPRESENTED BY ITS DIRECTOR, MR I S PRADEEP, NO.D-9/1
M M NAGAR INDUSTRIAL ESTATE, MARAIMALAI NAGAR
KANCHIPURAM DISTRICT, TAMIL NADU-603209

Vs

1) COMMISSIONER OF CUSTOMS
CHENNAI IV COMMISSIONERATE, CUSTOM HOUSE
60 RAJAJI SALAI, CHENNAI-600001

2) ASSISTANT COMMISSIONER OF CUSTOMS (EDC)
CHENNAI IV COMMISSIONERATE, CUSTOM HOUSE
60 RAJAJI SALAI, CHENNAI-600001

Dr Anita Sumanth, J

Dated: February 21, 2020

Appellant Rep by: Mr G Derrick Sam

Respondent Rep by: Mr Rajnish Pathiyil, Central Govt. Standing Counsel

Cus -

The assessee-company, engaged in the export of leather shoes, had filed a shipping bill claiming duty drawback - It stated that such export transaction was eligible for benefit under MEIS scheme notified under the Foreign Trade Policy - At the time of filing the shipping bill, the assessee inadvertently omitted to select YES on the online platform, as an option for availing such benefit - Later, the DGFT advised the assessee to have its shipping bills amended by the Customs Authorities - The assessee then filed application seeking amendment of shipping bill - However, the same was rejected - Hence the present writ.

Held - The issue as to whether inadvertent error of not claiming benefit under MEIS can be fatal to the assessee's claim for amendment of shipping bill, was considered by this court in *Pasha International V. Commissioner of Customs, Tuticorin* and in *Global Calcium Pvt. Ltd. V. Asst. Commissioner*

where both courts held in favor of the assessee - The error in not stating YES in availment of scheme is inadvertent and so should not come in the way of entitlement on merits - Besides, the benefit under the scheme would be available to the assessee conditional upon verification and acceptance of such claim by the DGFT - Hence the order rejecting request for amendment of shipping bills is quashed: HC

Writ petition allowed

Case laws cited:

Pasha International V. Commissioner of Customs, Tuticorin - [2019-TIOL-373-HC-MAD-CUS... Para 6](#)

JUDGEMENT

Per: Dr Anita Sumanth:

Mr.Rajnish Pathiyil, learned Central Government Standing Counsel accepts notice for the respondents.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. By consent expressed by both learned counsel, the writ petition is disposed even at the stage of admission.

4. The petitioner, engaged in the export of leather shoes, had filed a shipping bill claiming duty drawback. The export transaction, the petitioner states, was also entitled for benefit under the Merchandise Exports from India Scheme (MEIS) notified under the Foreign Trade Policy. However, at the time of filling of the shipping bill, the petitioner had inadvertently omitted to select 'YES' as an option for availing the MEIS benefit, on the online platform.

5. The entitlement to MEIS or otherwise is a matter to be examined by the Director General of Foreign Trade (DGFT) on an application made in this behalf by the petitioner. The DGFT, when approached, advised the petitioner to have the shipping bills amended by the Customs Authorities.

6. An application had thus come to be filed by the petitioner setting out the sequence of events as above and seeking amendment of the Bill containing the error. Upon consideration of the request made, the second respondent rejected the same by order dated 18.11.2019, as against which the present Writ Petition is filed.

6. This very issue as to whether the inadvertent error of not claiming benefit under the MEIS was fatal to the claim itself has come to be considered by learned single Judges of this Court in *Pasha International V. Commissioner of Customs, Tuticorin (2019 (365) ELT 669) = 2019-TIOL-373-HC-MAD-CUS* and *Global Calcium Pvt. Ltd. V. Asst. Commissioner (order dated 10.06.2019 in W.P.No.3321 of 2019) = 2019-TIOL-1259-HC-MAD-CUS* in favour of the petitioner.

7. I am also of the view that the error in not stating 'YES' to availment of the Scheme, such error, admittedly being inadvertent and Mr.Rajnish Pathiyil fairly does not dispute this, should not stand in the way of the consideration of entitlement on merits. As far as entitlement itself is concerned, I have already observed that the benefit of the Scheme would be available to the petitioner conditional upon verification and acceptance of such claim by the DGFT.

8. In the light of the discussion as above, the impugned order rejecting the request for amendment is quashed and a mandamus issued to the second respondent to amend the shipping bill as sought for, by the petitioner.

9. The Writ Petition is allowed. No costs.

(Paras are numbered as per the original text: **Editor**)

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