

IN THE HIGH COURT OF MADRAS

WP Nos.21568 and 21570 of 2019

**M/s WINSTAR MARKETING INDIA PVT LTD
REPRESENTED BY ITS MANAGING DIRECTOR
MR T J JEZREEL HUSSAIN, NO 11, CHOKKANATHAR STREET
KARTHIKEYAN NAGAR, MADHURAVOYAL
CHENNAI - 600095**

Vs

**DEPUTY COMMISSIONER OF CUSTOMS (GROUP 6)
CUSTOM HOUSE, NO 60, RAJAJI SALAI
CHENNAI - 600001**

M Sundar, J

Dated: July 23, 2019

Appellant Rep by: Mr Hari Radhakrishnan

Respondent Rep by: Mr A P Srinivas, Sr. Standing Counsel for Customs

Cus - The petitioner imported furniture items and respondent did not accept the declared value saying that furniture has to be assessed on the value arrived at on the basis of weight of furniture - Saying so, respondent assessed aforementioned ten Bills of Entry, enhanced the value of imported goods and collected enhanced duty - Prior to the aforesaid two orders in appeal made by Appellate Authority, petitioner moved this Court by way of an earlier writ petition and the same came to be disposed of by Single Judge of this Court vide order dated 17.8.2015, wherein provisional release of consignment imported by petitioner was ordered on certain terms, but it may not be necessary to advert to those terms and suffice to say that provisional release did happen - Revenue submits that there are no further appeals against the aforesaid orders and that the same have been given legal quietus - Also to be noted, as alluded to supra, writ petitioner has abridged/restricted the prayers and submitted that it will suffice if there is a direction to the respondent to assess the Bills of Entry within a time frame - Therefore, there shall be a direction to the respondent to assess/process ten Bills of Entry in accordance with the orders dated 9.2.2016 and 31.3.2016 within eight weeks : HC

Writ petition disposed of

JUDGEMENT

Per: M Sundar:

Mr.Hari Radhakrishnan learned counsel on record for writ petitioner in both these writ petitions and Mr.A.P.Srinivas, learned Senior Standing Counsel for Customs, who has accepted notice on behalf of lone respondent in both these writ petitions, are before this Court.

2. With consent of learned counsel on both sides, main writ petitions are taken up, heard out and are being disposed of.

3. To be noted, these writ petitions were listed in the 'Motion List' today. After learned Revenue Counsel, who accepted notice on behalf of the lone respondent was given time to get instructions in the Forenoon Session, writ petitions were passed over and taken up in the Afternoon Session, by which time, learned Revenue Counsel had taken instructions.

4. Notwithstanding prayers in the writ petitions, notwithstanding various averments and the grounds raised in the affidavits filed in support of these writ petitions, learned counsel for writ petitioner, on instructions, abridged, restricted and limited the prayers to saying that it will suffice if there is a direction to the respondent to assess the Bills of Entry (to be noted, there are ten Bills of Entry in all in both these writ petitions put together) in accordance with orders made

being Order-in-Appeal bearing Reference C.Cus-II Nos.135 to 137/2016 and 297/2016 dated 9.2.2016 and 31.3.2016 respectively by Commissioner of Customs (Appeals-II)

5. On instructions, learned Revenue Counsel submits that there are no further appeals against the aforesaid orders in appeals dated 9.2.2016 and 31.3.2016 made by Commissioner of Customs (Appeals-II).

6. Therefore, these matters now turn on an extremely narrow compass and short facts shorn of elaboration would suffice.

7. Suffice to say that writ petitioner imported furniture items and respondent did not accept the declared value saying that furniture has to be assessed on the value arrived at on the basis of weight of furniture.

8. Saying so, respondent assessed aforementioned ten Bills of Entry, enhanced the value of imported goods and collected enhanced duty.

9. Prior to the aforesaid two orders in appeal made by the Appellate Authority, namely, Commissioner of Customs (Appeals-II), writ petitioner moved this Court by way of an earlier writ petition being WP No.24013 of 2015 and the same came to be disposed of by a Hon'ble Single Judge of this Court vide order dated 17.8.2015, wherein provisional release of the consignment imported by writ petitioner was ordered on certain terms, but it may not be necessary to advert to those terms and suffice to say that provisional release did happen.

10. Be that as it may, adjudication culminated in the aforesaid two orders of the Appellate Authority dated 9.2.2016 and 31.3.2016. Operative portion of the orders of Appellate Authority read as follows:

'11. In view of the discussions as above, I set aside the rejection of declared value and enhancement as per benchmark value and order the LAA to again assess the bills of entry accepting the declared invoice value. Appeal allowed.'

11. As already alluded to supra, learned Revenue Counsel, on instructions, submits that there are no further appeals against the aforesaid orders and that the same have been given legal quietus. Also to be noted, as alluded to supra, writ petitioner has abridged/restricted the prayers and submitted that it will suffice if there is a direction to the respondent to assess the Bills of Entry (Ten Bills of Entry in all) within a time frame.

12. Therefore, there shall be a direction to the respondent to assess/process ten Bills of Entry being Bills of Entry Nos.9803441 dated 23.5.2017, 9868109 dated 13.7.2015, 2118846 dated 3.8.2015, 2386527 dated 27.8.2015, 3041417 dated 26.10.2015, 3984296 dated 21.1.2015, 4691028 dated 24.3.2016, 5064428 dated 27.4.2016, 5337994 dated 20.5.2016 and 5391516 dated 25.5.2016 in accordance with the orders dated 9.2.2016 and 31.3.2016 of Commissioner of Customs (Appeals-II) bearing Reference C.Cus II Nos.135 to 137/2016 and 297/2016 respectively, within eight weeks from the date of receipt of a copy of this order. The outcome shall be communicated to the writ petitioner under Due Acknowledgment within seven working days there from. Though obvious, it is made clear that consequences, which flow from the outcome, will proceed without any further reference to this Court.

13. Writ petitions are disposed of with the above directions. However, there shall be no order as to costs.