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WP No. 35884 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28-03-2025**

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

WP.No. 35884 of 2024

and

W.M.P.No.38739 & 2024

M/s.Hiseins Exim
No 86, 2nd Floor, Varadha Muthiappan Street,
Sowcarpet, Chennai 600 001

Petitioner

Vs

The Additional Commissioner of Customs (Gr.5)
No.60, Rajaji Salai, Customs House,
Chennai 600 001

Respondent

For Petitioner(s): Mr.S.Baskaran

**For Respondent(s): Ms. Anu Ganesan,
Standing Counsel**

ORDER

The petitioner has challenged the impugned Order-in-Original on the following grounds:

(a) No personal hearing was afforded to the petitioner as per the respondent own Circular prior to the passing of the impugned order. According to the petitioner, in view of the same, the impugned order has to be quashed.

(b) The respondent has erroneously relied upon a letter issued by the petitioner in the year 2023 (14.08.2023) wherein according to the respondent, the petitioner had waived the issuance of show cause notice by the respondent. However, according to



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the petitioner, the said letter was given to the respondent by the petitioner only on the expectation that the petitioner will be able to obtain release of goods as was done for the very same petitioner at a contemporaneous point of time.

2. Learned counsel for the petitioner also relies upon the decisions rendered by this Court which have been filed in the compilation of decisions including the decision passed by this Court (Madurai Bench) involving the very same issue wherein the importer has given a letter agreeing for waiver of show cause notice. But this Court in the said decision had held that the statutory provisions of Section 124 has to be necessarily complied with by the respondent, in case, the importer is penalised subsequent to the letter issued by the importer.

3. However, the learned Standing Counsel appearing for the respondent would submit that having given a letter waiving the issuance of show cause notice, the petitioner cannot go back on the same and now, contend that the respondent has erroneously passed the impugned Order-in-Original which is adverse to the petitioner's interest. Even on merits, the learned Standing Counsel for the respondent, after drawing the attention of this Court to the impugned Order-in-Original, would submit that a reasoned order has been passed by the respondent after giving due consideration to the fact that the petitioner had accepted the enhancement of the customs duty which is also been recorded in the impugned order.



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4. However, the learned counsel for the petitioner would submit that the acceptance was given only on the expectation that the petitioner will obtain an order for release of the goods. Learned Standing Counsel for the respondent would also submit that no specific request was sought for by the petitioner for personal hearing pursuant to the order passed in W.P.No.18886/2024 on 05.08.2024. However, the same is refuted by the learned counsel for the petitioner who would submit that whether a specific request is sought for or not, the respondent is bound by their own circular which mandates that personal hearing will have to be afforded to the petitioner. Having not granted personal hearing, the impugned Order-in-Original has to be quashed and remanded back to the respondent for fresh consideration.

5. Since a counter has not been filed by the respondent, the learned Standing Counsel for the respondent seeks time to file counter.

Post the matter for counter and disposal on 25.04.2025.

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vsi



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ABDUL QUDDHOSE,J.

vsi

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