

**Additional Director General of DRI not a ‘Proper Officer’ to Exercise Power under Customs Act, Initiation of Recovery Proceedings: Madras HC**

**· Proper officer to decide case one way or other and issue detention certificate to waive demurrage charge on container**

The Madras High Court held that the Additional Director General of DRI not a “Proper Officer” to exercise power under Customs Act, initiation of recovery proceedings.

The petitioner, M/s. Unik Traders is incurring Demurrage and Container Detention Charges for the containers to the liners as the imported consignments are not being allowed to be cleared as the assessment has not been completed by the jurisdictional “proper officers” under the jurisdiction of Additional Commissioner of Customs at the instance of the third and the Intelligence Officer.

It is therefore prayed for a further direction to be issued for the issuance of “Detention Certificate” for the waiver of demurrage and detention charges to be paid to the Consignment Freight Station of Balmer & Lawrie, where the imported goods are lying since their import on 22.9.2021 and 29.9.2021.

The single bench of Justice C.Saravanan held that It is only the jurisdictional proper officer’s namely, the first and second respondent or the Appraiser (customs) within the meaning of Notification No.40/2012-Cus,(N.T) dated 02.05.2012 who are empowered to complete the assessment whether finally or provisionally. They should therefore complete such assessment within a period of 15 days from the date of receipt of a copy of this order.

The court said that at this stage, the “proper officer” who has been given the task to assess the Bill of Entry which involves both classification and valuation and determination as to whether the import of the goods is prohibited should be allowed to pass appropriate Order under the Custom Act, 1962. Such Officers can rely on the information which may be passed on by the Principal Additional Director General and Intelligence Officer or their counterparts in Chennai while assessing the goods.

“Since the imported goods are natural products and are prone to deterioration due to exposure to elements and natural causes with efflux of time and humid & inclement

weather condition in Chennai and are lying at Balmer Lawrie CFS, Chennai since the end of September, 2021 the 1st and the 2nd respondents and/or such other officers vested with the powers to assess the Bills of Entries are directed to exercise their powers under the Customs Act, 1962 one way or the other,” the court said.

Source: Taxscan