



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 2ND DAY OF NOVEMBER 2023 / 11TH KARTHIKA, 1945

WP(C) NO. 9609 OF 2023

PETITIONER:

M/S. WHITE METALS ASPEROS,
HIGH COURT JUNCTION, ERNAKULAM, PIN - 682 035, KERALA
REPRESENTED BY ITS MANAGING PARTNER, MR. SAFARULLA K.H

BY ADVS.
M.BALAGOPAL
R.DEVIKA (ALAPPUZHA)
PRAKASH.C.R

RESPONDENTS:

- 1 THE COMMISSIONER OF CUSTOMS,
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, OFFICE OF
THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, WILLINGDON
ISLAND, COCHIN,, PIN - 682 009.
- 2 THE FACELESS ASSESSMENT GROUP,
REPRESENTED BY THE COMMISSIONER OF CUSTOMS, CENTRAL
BOARD OF INDIRECT TAXES AND CUSTOMS, OFFICE OF THE
COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, WILLINGDON
ISLAND, COCHIN, KERALA, PIN - 682 009.
- 3 THE ASSISTANT COMMISSIONER OF CUSTOMS (APPRAISING-
IMPORTS),
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, OFFICE OF
THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, WILLINGDON
ISLAND, COCHIN, KERALA, PIN - 682 009.

BY ADV AJOY P.B.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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DINESH KUMAR SINGH, J.

WP(C) NO. 9609 OF 2023

Dated this the 2nd day of November, 2023

J U D G M E N T

1. The Commissioner (Appeals) is directed to dispose of the appeal instituted by the petitioner against the order in original No.73/2023 dated 05.09.2023.

2. Learned counsel for the petitioner submits that in view of the subsequent development of finalising the order in original No.73/2023 dated 05.09.2023, this writ petition has been rendered infructuous as the petitioner has already instituted appeal against the said order in original. Therefore, the present writ petition may be closed as has been rendered infructuous. However, the Commissioner (Appeals) is directed to dispose of the appeal filed by the petitioner



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against the said order in original No. 73/2023 dated 05.09.2023, within a specified time,

3. Considering the said submission the present writ petition is closed as having been rendered infructuous with a direction to the Commissioner (Appeals) to dispose of the appeal instituted by the petitioner against the impugned order in original No. 73/2023 dated 05.09.2023 expeditiously, preferably within a period of four months in accordance with the law.

4. With the aforesaid direction, the present writ petition is closed.

**Sd/-
DINESH KUMAR SINGH
JUDGE**

rpr



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APPENDIX OF WP(C) 9609/2023

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE COMMERCIAL INVOICE NO. JX-WM2201 DATED 09.01.2023
Exhibit P2	TRUE COPY OF THE OCEAN BILL OF LADING NO. SZF23010037 DATED 19.01.2023
Exhibit P3	TRUE COPY OF THE SELF-ASSESSED BILL OF ENTRY NO. 4405013 DATED 30.01.2023
Exhibit P4	TRUE COPY OF THE QUERY RAISED BY THE 2ND RESPONDENT AND THE PETITIONER'S REPLY
Exhibit P5	TRUE COPY OF THE READABLE/LEGIBLE COPY OF EXT-P4
Exhibit P6	TRUE COPY OF SCREEN SHOT OF THE TEST REPORT DATED 10.02.2023 ISSUED BY THE CUSTOM HOUSE LABORATORY
Exhibit P7	TRUE COPY OF THE REASSESSED BILL OF ENTRY NO. 4405013 DATED 30.01.2023
Exhibit P8	TRUE COPY OF THE PROTEST LETTER DATED 17.02.2023 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT
Exhibit P9	TRUE COPY OF THE DUTY PAYMENT CHALLAN NO. 2042713394 DATED 21.02.2023
Exhibit P10	TRUE COPY OF THE CIRCULAR NO. 55/2020-CUSTOMS DATED 17.12.2020 ISSUED BY THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
Exhibit P11	TRUE COPY OF THE FINAL ORDER OF CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI IN THE CASE OF COMMISSIONER OF CUSTOMS (IMPORT), (ICD, TKD), NEW DELHI VS. DINESH LOHIA, REPORTED IN 2019 (370) E.L.T. 366 (TRI. -DEL.)
Exhibit P12	TRUE COPY OF THE ORDER-IN-ORIGINAL NO. 101386/2023 DATED 06.03.2023 PASSED BY THE PRINCIPAL COMMISSIONER OF CUSTOMS, PREVENTIVE COMMISSIONERATE, CHENNAI