(2016) 09 MAD CK 0008

In the Madras High Court

Case No : Writ Petition No. 24678 of 2016 and W.M.P. No. 21065 of 2016

Arthanari Loom Centre (Textile) P. Ltd. APPELLANT

Vs

C.C. (Sea-Port), Chennai RESPONDENT

Date of Decision : 28-09-2016

Acts Referred:

Citation : (2017) 346 ELT 78

Hon'ble Judges : T.S. Sivagnanam, J.

Bench : Single Bench

Advocate : Shri C. Saravanan, Advocate, for the Petitioner; Mrs. R. Hemalatha, Sr. Panel Counsel and Dr. D. Gopinath, Counsel, for the Petitioner

Final Decision : Disposed Off

Judgement

T.S. Sivagnanam, J.—Heard Mr. C. Saravanan, learned counsel appearing for the petitioner and Mrs. R. Hemalatha, learned Senior Panel Counsel for the first and second respondents and Mr. D. Gopinath, learned counsel for the fourth respondent and with the consent on either side, the writ petition itself is taken up for disposal.

2. The petitioner seeks for issuance of a Writ of Mandamus, to direct the second respondent to refund the Drawback amount of Rs. 59,79,927/-, to the petitioner along with interest at the rate of 6% per annum.

3. The petitioner is a company, engaged in the manufacture and export of Yarn Dyed Woven Fabrics. During the period commencing from August, 2014 to May, 2016, it exported PTC Cotton and PTC Polyester Yarn dyed woven fabrics to various foreign buyers and on account of such export, the petitioner claims to be entitled to drawback amount of Rs. 59,79,927/- in terms of Section 75 of the Customs Act, 1962, read with the Customs, Central Excise and Service Tax Duty Drawback Rules, 1995.

4. The petitioner would state that on account of a mistake which had occurred in the EDI System, while the data was transcribed, it resulted in crediting of

drawback amount of only Rs. 50,68,699/-.

5. It is the case of the petitioner that during the second week of June, 2016, part of the petitioner''s entitlement was wrongly transferred to the fourth respondent account. This appears to have been on account of some mistake. Then, the petitioner had been making several representations and the last of which appears to have been made on 22-6-2016, and since no appreciable action was taken, the petitioner has filed this writ petition setting out the factual details apart from referring to Circular No. 1 of 2008 and Circular No. 1013 of 2016, which are guidelines for implementation of e-payment of refund/repaid.

6. During the pendency of the writ petition, an additional affidavit has been filed by the petitioner stating that on 20-8-2016, the Customs Department has transferred an amount of Rs. 57,70,227/- to the petitioner as against its total claim of Rs. 59,79,927/-. Therefore, according to the petitioner, there is a balance of Rs. 2,09,680/-. The petitioner would further state that on the entire amount, which was payable, the petitioner is entitled for interest at 6%, which the petitioner would claim is payable in terms of Section 75A and Section 27A of the Customs Act, 1962, read with Notification No. 75/03-Cus. (N.T.), dated 12-9-2003. Thus, it appears that substantial amount of drawback claim has been settled to the petitioner and it is stated that there is a balance of around Rs. 2,00,000/- and the further claim of the petitioner is that he is entitled for interest, which according to the petitioner is payable statutorily. However, at this juncture, this Court is not inclined to adjudicate as to whether interest is payable and the quantum of interest, as the second respondent is yet to take a decision on the matter.

7. The learned counsel for the fourth respondent on instructions would submit that on coming to know of the wrong credit being effected into their drawback account, they have immediately contacted the Customs Department and remitted the amount back to the Customs Department by Demand Draft dated 1-8-2016.

8. Thus, the second respondent is directed to consider all these aspects and if there is no other dispute with regard to the balance of Rs. 2,09,680/-, that shall be disbursed to the petitioner, within two weeks from the date of receipt of a copy of this order.

9. Similarly, if interest is admissible, then the Department shall effect such payment also, but for any reason, if the second respondent is of the view that there is any discrepancy in these amounts or there are any other issues on claim for interest, he shall pass a speaking order and communicate the same to the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

