(2015) 04 MAD CK 0188

In the Madras High Court

Case No : Writ Petition No. 13312 of 2015

Sudersan Impex APPELLANT

Vs

The Commissioner of Customs (Exports) and Others RESPONDENT

Date of Decision : 29-04-2015

Acts Referred:

Citation : (2015) 04 MAD CK 0188

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : A.K. Jayaraj, for the Appellant; V. Sundareswaran, Advocates for the Respondent

Judgement

T. Raja, J.

1. This writ petition has been filed by the petitioner seeking a limited prayer of directing the third respondent-Deputy Commissioner of Customs (Refunds), Chennai to refund a sum of Rs. 20,672/- and Rs. 1,36,427/- claimed by the petitioner by giving effect to the order passed by the Commissioner of Customs (Appeals), Chennai, the second respondent herein vide Order-in-Appeal C. Cus. Nos. 901 and 902 of 2014 dated 12.06.2014 in Appeal Nos. C3/338 and 339/R/2014-Sea.

2. The crux of the issue is that the petitioner after importing the goods vide Bill of Entry Nos. 645865 dated 1.10.2010 and 717204 dated 13.12.2010, had filed refund applications in terms of the Notification No. 102/2007 dated 14.9.2007 as per the amendment carried in Notification No. 93/2008 dated 1.8.2008. Although the petitioner had submitted all the relevant documents for processing the refund applications along with TR6 challans evidencing that the necessary duties including the special additional duty of customs were paid before the clearance of the said goods for home consumption, the third respondent, without taking into consideration the submissions made by the petitioner, passed the order rejecting the refund claims made by the petitioner for non-fulfillment of the conditions

against paragraph 2(e)(ii) of the Notification

3. Aggrieved by the order passed by the third respondent dated 4.3.2014 in Order-in-Original Nos. 24228/14 and 24231/14, the petitioner preferred appeals before the second respondent-Commissioner of Customs (Appeals), Chennai. After granting an opportunity of personal hearing in Appeal Nos. C3/338 and 339/R/2014-Sea, the second respondent allowed the appeals filed by the petitioner. Only after the order of the second respondent dated 12.6.2014 in Order-in-Appeal C. Cus. Nos. 901 and 902/2014 with reference to the Bill of Entry Nos. 645865/01.10.2010 and 717204/13.12.2010, the petitioner made a request to sanction the refund of SAD amount of Rs. 20,672/- and Rs. 1,36,427/- vide representation dated 15.7.2014 and the same was also acknowledged by the third respondent on 18.7.2014. But the application for refund of SAD amount has not been taken up by the third respondent. He has further submitted that in similar circumstances, this Court was pleased to direct the respondents to refund the amount by giving effect to the order passed by the Commissioner of Customs (Appeals) in W.P. No. 3332 of 2010 dated 19.3.2010. As the respondents have already complied with a similar request, on the basis of the order passed by this Court in W.P. No. 3332 of 2010 dated 19.3.2010, there cannot be any impediment, he pleaded.

4. Mr. V. Sundareswaran, learned counsel takes notice on behalf of the respondents. Learned counsel for the respondents submitted that if no further appeal is filed, the pending representation dated 15.7.2014 made by the petitioner will be duly considered.

5. Admittedly, the petitioner had preferred appeals against the Order-in-Original Nos. 24228/14 and 24231/14 dated 4.3.2014 passed by the third respondent and after granting an opportunity of personal hearing in Appeal Nos. C3/338 and 339/R/2014-Sea, the second respondent allowed the appeals filed by the petitioner. Pursuant thereto, the petitioner has made a request for refund of the SAD amount. In the light of the above, recording the submission of the learned counsel for the respondents, if no further appeal is filed, the third respondent is hereby directed to refund the SAD amount of Rs. 20,672/- and Rs. 1,36,427/- vide representation dated 15.7.2014, within a period of six weeks from the date of receipt of a copy of this order. The writ petition stands disposed of accordingly. No costs.

