(2015) 04 MAD CK 0245

In the Madras High Court

Case No : Writ Petition (MD) No. 5592 of 2015 and M.P. (MD) No. 1 of 2015

Sundaram Industries Limited APPELLANT

Vs

The Department of Central Excise RESPONDENT

Date of Decision : 21-04-2015

Acts Referred:

Citation : (2015) 321 ELT 37

Hon'ble Judges : S. Vaidyanathan, J

Bench : Single Bench

Advocate : Muthuvenkatraman, for the Appellant; R. Aravindan, Advocates for the Respondent

Judgement

S. Vaidyanathan, J.

1. This Writ Petition has been filed challenging the impugned communication dated 01.04.2015 issued by the respondent and consequential direction to the respondent to refund the sum of Rs. 15,00,000.00 (Rupees Fifteen Lakhs only) towards the payments wrongly made by the petitioner in Assessee Code AABCS5320JXM001 or in the alternative to allow credit of the payment in favour of the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner company is a manufacturer of rubber products and assessee under the respondent and they are paying excise duty regularly. On 06.11.2014, while making payment of Rs. 15,00,000/- towards excise duty through e-payment, the petitioner company wrongly mentioned their assessee code as AABCS5320J XM001 instead of AABCS5320HXM001 resulting wrong entry of credit from the account of a different assessee viz., M/s. SURI IMPEX, Gurgaon instead of petitioner company. Immediately after coming to know about the wrong payment, on 07.11.2014, the petitioner company effected payment along with interest. Thereafter, the petitioner company sought refund of the payment made on 06.11.2014 by wrongly mentioning the assessee code. According to the

petitioner, the said company is no longer in existence and the petitioner also obtained No Objection letter from the said company and submitted the same before the respondent. However, the respondent has issued the impugned notice asking the petitioner to explain and also fixed a date of personal hearing on 06.04.2015. Challenging the said notice, the petitioner has approached this Court.

3. The respondent has filed a detailed counter wherein at paragraph 5 it has been stated as follows:

"5. During the course of process of the petitioner''s refund application, a letter was addressed to the Assistant Commissioner of Central Excise, Gurgaon, on 01.01.2015 to confirm the payments said to have been made by the petitioner under the wrong STC code belonging to M/s. Suri Impex. The Assistant Commissioner of Central Excise, Gurgaon vide letter dated 05.01.2015 certified that M/s. Suri Impex have applied for surrender of registration and there are no dues pending against M/s. Suri Impex, Gurgaon at present. In the meantime, M/s. Suri Impex have also vide their letter dated 31.12.2014, have said that they have no objection in refunding Rs. 15 lakhs to the petitioners. The petitioner vide their letter dated 20.02.2015 submitted a letter of State Bank of India dated 20.02.2015 certifying that the payment has wrongly been made by the petitioner. The petitioner also furnished an indemnity bond undertaking to indemnify the loss of the Department on account of Department sanctioning refund of Rs. 15 lakhs to them."

4. Admittedly, while making e-payment, the petitioner company has wrongly mentioned its assessee code as AABCS5320J XM001 instead of AABCS5320HXM001 wherein one letter viz., "J" has been wrongly mentioned instead of "H". Therefore, the department has given credit of the said amount from the company which has the assessee code as AABCS5320J XM001 which is not in existence as of now. Apart from that, admittedly, the petitioner has made the payment twice. In view of the above said position, the petitioner is entitled to get refund of the payment wrongly made on 06.11.2014. Therefore, the respondent is directed to refund the said amount to the petitioner company within a period of two weeks from the date of receipt of a copy of this order.

5. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Note: Issue order copy on 28.04.2015

