

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.15504 of 2015

M/s.POS Hyundai Steel Mfg India Pvt. Ltd.,
Represented by its Managing Director,
Mr.KIM IM KWON,
F-70, SIPCOT Industrial Park,
Irungattukottai,
Kanchipuram District-602 105.

... Petitioner

.. Vs ..

The Assistant Commissioner
of Customs (Refunds),
Customs House, No.60,
Rajaji Salai,
Chennai-600 001.

.... Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to dispose of the refund application dated March 28, 2012 in terms of Order - in - Appeal C.Cus.No.1302/2014, dated 30.07.2014 passed by the Commissioner of Customs (Appeals), within a reasonable time frame.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.K.Mohanamurali,

Senior Central Government Standing Counsel

ORDER

This writ petition has been filed by the petitioner praying for the issuance of a Writ of Mandamus, directing the respondent to dispose of the refund application dated 28.03.2012 in terms of Order-in-Appeal C.Cus.No.1302/2014, dated 30.07.2014 passed by the Commissioner of Customs (Appeals), within a reasonable time frame.

2. Heard Mr.G.Derrick Sam, learned counsel appearing for the petitioner and Mr.K.Mohanamurali, learned Senior Central Government Standing Counsel appearing for the respondent.

3. The petitioner has paid excess Customs Duty of Rs.1,88,673/-. Subsequently, he has also filed a refund claim before the respondent on 28.03.2012. But the respondent rejected the claim on various grounds vide his Order-in-Original No. 20266/2013, dated 29.01.2013. As against which, the petitioner

filed an appeal before the Commissioner of Customs (Appeals), Chennai. The Commissioner of Customs (Appeals), vide Order-in-Appeal C.Cus.No.1302/2014, dated 30.07.2014, has allowed the appeal by setting aside the order passed by the respondent and directed the Lower Adjudication Authority once again to verify the CA certificate produced by the petitioner herein. Subsequently, the said order was communicated to the respondent vide letter dated 09.10.2014 requesting to pass an order in terms of the direction of the Commissioner of Customs (Appeals), Chennai. As there was no response, a reminder dated 23.05.2015 was also sent to the respondent. Again there was no response from the respondent. Therefore, the petitioner, who is entitled to claim refund as per the order passed by the Commissioner of Customs (Appeals), in Order-in-Appeal C.Cus.No.1302/2014, dated 30.07.2014, is entitled to succeed in the writ petition.

4. Accordingly, mandamus is issued directing the respondent to dispose of the refund application dated 28.03.2012 in terms of Order-in-Appeal C.Cus.No.1302/2014, dated 30.07.2014 passed by the Commissioner of Customs (Appeals), within a period of one week from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jrl

To

The Assistant Commissioner of Customs (Refunds),
Customs House, No.60, Rajaji Salai,
Chennai-600 001.

+1cc to Mr.K. Mohanamurali, Advocate, S.R.No.29884

+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No.30193

MG(CO)
EU(01/07/2015)

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