

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.15505 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 Deputy 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 November 19, 2007 in terms of Order - in - Appeal C.Cus.No.1828/2013, dated 16.12.2013 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 19.11.2007 in terms of Order-in-Appeal C.Cus.No.1828/2013, dated 16.12.2013 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 filed a claim for refund of Rs.19,72,929/- before the respondent on 19.11.2007. But the respondent rejected the claim vide his Order-in-Original No.15806/2011, dated 27.04.2011 on the ground that the petitioner

did not produce the Original 56 Bills of Entry and TR-6 Challans. As against which, the petitioner filed an appeal before the Commissioner of Customs (Appeals), Chennai. The Commissioner of Customs (Appeals), Chennai, vide his Order-in-Appeal C.Cus.No.1828/2013, dated 16.12.2013, has allowed the appeal by setting aside the order passed by the respondent and directed the petitioner to approach the Lower Authority and the Lower Authority was also directed to re-visit the case after following the principles of natural justice as deemed fit. Subsequently, the said order was communicated to the respondent vide letter dated 08.01.2014 requesting him 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.1828/2013, dated 16.12.2013, is entitled to succeed in the writ petition.

4. Accordingly, mandamus is issued directing the respondent to dispose of the refund application dated 19.11.2007 in terms of Order-in-Appeal C.Cus.No.1828/2013, dated 16.12.2013 passed by the Commissioner of Customs (Appeals), without insisting upon the Original Bill of Entry as it was sent to the Refund Section by the Appg. Group and was lost in transit. As a matter of fact, the petitioner had filed a triplicate copy of the B/E, which is a requirement for processing the claim and this has been rightly enlighten by the Commissioner of Appeals in Order-in-Appeal C.Cus.No.1828/2013, dated 16.12.2013. Therefore, in view of the prevailing situation, the indemnity bond of the petitioner may be accepted in lieu of the original copy of Bill of Entry and the claim may be processed and also granted at the earliest point of time preferably 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

Jr1

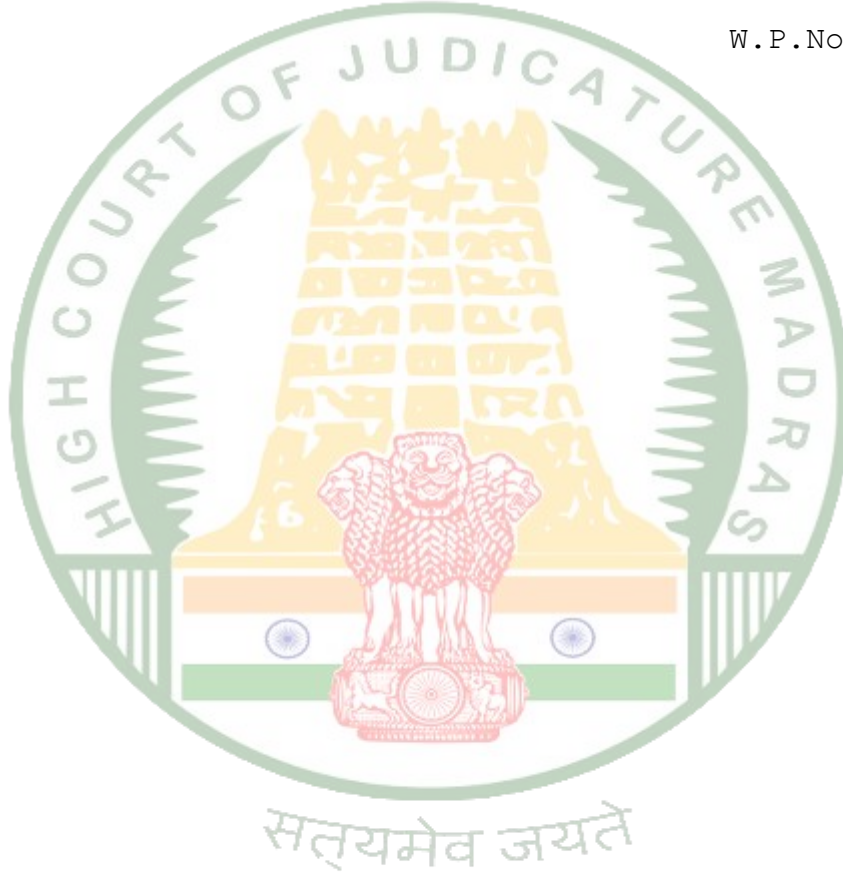
To

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

+1cc to Mr.K. Mohanamurali, Advocate, S.R.No.29885

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

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