

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.No.1921 of 2015

M/s.Orr Jay Process rep. By its
Partner R.Janardhanan .. Petitioner

Vs.

The Deputy Commissioner of
Customs (Refunds), Custom House,
No.60, Rajaji Salai, Chennai - 1. ... Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent herein to grant the refund of Rs.18,35,000/- as per the directions of the Commissioner of Customs (Appeals) in terms of the order in Appeal C.Cus.No.853/2013 dated 25.06.2013.

For Petitioner .. Mr.S.Murugappan

For Respondent .. Mr.Haja Mohideen Gisthi

ORDER

This writ petition has been filed by M/s.Orr Jay Process represented by its partner R.Janardhanan, seeking issuance of writ of mandamus directing the Deputy Commissioner of Customs (Refunds), Chennai, the respondent herein, to grant refund of Rs.18,35,000/- as per the direction issued by the Commissioner of Customs (Appeals) in terms of the order in Appeal C.Cus.No.853 of 2013 dated 25.06.2013.

2.The learned counsel for the petitioner drawing the notice of this Court to the order passed by the Commissioner of Customs (Appeals) in Appeal C.Cus.No.853 of 2013 dated 25.06.2013 submitted that the Commissioner (Appeals) has partially allowed the petitioner's appeal by modifying a portion of the impugned order pertaining to his appeal by restricting the confiscation of sale proceeds impugned under Section 121 of the Customs Act, 1962 to Rs.9,65,000/-. In the said order, it was also specifically directed that a penalty amount of Rs.4,00,000/- imposed on the petitioner can

be adjusted against the amount of Rs.32,00,000/-, which was already deposited and thereupon further directed that the balance amount of Rs.18,35,000/- to be refunded to him in accordance with law. In spite of the clear direction given by the Commissioner (Appeals) in the aforesaid order, the respondent did not refund the balance amount of Rs.18,35,000/-. Therefore, the petitioner has made representations on three occasions. However, finding no response, he was constrained to come to this Court. Concluding his argument, the learned counsel for the petitioner would submit that the petitioner has not made any claim of interest on the said amount.

3.Mr.Haja Mohideen Gisthi, learned counsel for the respondent in reply to the above submission, submitted that although the petitioner has made number of representations, he has not produced any original challan for deposit of Rs.32,00,000/-. Therefore, a deficiency memo was issued to the petitioner to furnish the original TR 6 challan. But, till date, the petitioner has not come forward with original TR6 challan. Hence the petitioner cannot put the blame on the respondent and he has to blame himself. Be that as it may, as there has been a clear direction by the Commissioner (Appeals) in his order in Appeal C.Cus.No.853 of 2013 dated 25.06.2013 for refund of balance amount of Rs.18,35,000/- to the petitioner, the petitioner is entitled to receive the same amount on production of the original TR6 challan as called for by the respondent. Therefore, the petitioner is directed to furnish the original TR 6 challan in respect of the deposit of Rs.32,00,000/- and on production of the same, within a period of one week, the respondent shall refund the said amount to the petitioner.

4.With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

The Deputy Commissioner of
Customs (Refunds), Custom House,
No.60, Rajaji Salai, Chennai - 1.

1 cc to Mr. S.Murugappan, Advocate, SR.No.20835

1 cc to Mr. S.Haja Mohideen Gisthi, Advocate, SR.No.20874

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mp (co) pmk.14.5.2015