

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.07.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.20192 of 2015

and

M.P.Nos.1 and 2 of 2015

M/s.Indian Embroidery Company,
A Partnership Firm rep. by its
Partner Smt.P.Vasanth,
No.12/33, Venkatesa Maistry Street,
2nd Floor, Sowcarpet, Chennai-79.

...Petitioner

Versus

1. The Commissioner of Customs
(Airport and Air Cargo Complex),
New Custom House,
Meenambakkam, Chennai-27.
2. The Assistant Commissioner of Customs
(Drawback), Office of the Commissioner
of Customs, Airport and Air Cargo
Complex, Meenambakkam,
Chennai-27.

...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in and connected with order-in-original No.559/2014 dated 04.09.2014, in F.No.S.Misc.141/2014-DBK (BRC)-AIR on the file of the 2nd respondent and quash the same being null and void.

For Petitioner : Mr.B.Satish Sundar

For Respondents : Mr.T.Chandrasekaran, S.P.C.

O R D E R

This Writ Petition has been filed challenging the order-in-original No.559/2014 dated 04.09.2014, in F.No.S.Misc.141/2014-DBK (BRC)-AIR of the 2nd respondent in and by which the Assessing Officer has confirmed the demand for Rs.2,77,554/- on M/s.Indian Embroidery Company, Chennai (IEC.No.0403006767) under the provisions of sub-rule 16A(2) of Customs, Central Excise and Service Tax Drawback Rules, 1995 along with applicable interest. The authority has also directed

the petitioner to pay the amount within 30 days of receipt of that order, failing which action contemplated in terms of Rule 16 of the said Rules read with Section 142 of the Customs Act, would be initiated to recover the said amount.

2. Though the learned Counsel appearing for the petitioner raised several contentions in support of the petitioner's case, this Court is not inclined to interfere with the impugned order passed by the 2nd respondent because the petitioner has got an efficacious remedy of filing appeal before the Commissioner of Appeals.

3. However, the learned Counsel for the petitioner would submit that appeal time has already elapsed in this matter. Therefore, he seeks a direction to approach the appellate authority with a Condone Delay Petition.

4. In view of all the above, the Writ Petition is dismissed as not maintainable, however, with liberty to the petitioner to approach the appellate authority by filing an appeal along with a Condone Delay Petition, who in turn, may consider the same and proceed further in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Customs
(Airport and Air Cargo Complex),
New Custom House,
Meenambakkam, Chennai-27.
2. The Assistant Commissioner of Customs
(Drawback), Office of the Commissioner
of Customs, Airport and Air Cargo
Complex, Meenambakkam,
Chennai-27.

1 CC to Mr.B.Satish Sundar, Advocate SR.No. 34419

1 CC to Mr.T.Chandrasekaran, Advocate SR.No. 34919

W.P.No.20192 of 2015

VGI (CO)

PSI (23.07.2015)