



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-02-2015

Coram :

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

Writ Petition No. 77 of 2015

M/s. Sree Rayalaseema Hi-strength Hypo Ltd
rep. by its Managing Director Shri. T.G. Bharath
Gondiparla, Kurnool
Andhra Pradesh - 518 004

.. Petitioner

Versus

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

.. Respondent

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus directing the respondent to handover the original documents such as (i) Status Holder Incentive Scrip Licence No.01/2010-2011 dated 30.07.2010 (ii) Focus Market Scheme License No.0910044734/0/27/00 dated 16.12.2010 (iii) Duplicate (Importer Copy) of Bill of Entry No.780027 dated 14.02.2011 to the petitioner by fixing a time frame.

For Petitioner : Mr. Hari Radhakrishnan
For Respondent : Mr. K. Mohanamurali, SPC

ORDER

The petitioner company imported titanium sheets as per bill of entry No. 134886 dated 14.12.2010 and paid duty by way of debiting the amount in Status Holder Incentive Scheme in terms of the notification dated 14.09.2009. However, the benefits conferred under the said notification was denied to the petitioner by an order dated 18.12.2010. As against the same, the petitioner filed an appeal before the Commissioner of Customs (Appeals) and it was dismissed on 27.01.2011. Thereafter, the petitioner filed a fresh bill of entry No.780027 dated 14.02.2011 for the same goods in lieu of the abovementioned Bill of Entry No.134886 dated 14.12.2010 and once again paid duty on 14.02.2011 by way of debiting the amount in the Focus Market Scheme licence as per the notification No.93 of 2009 dated 11.09.2009. However, the respondent rejected the said refund claim made by the petitioner on 28.04.2014 on the ground that it is time barred as per Section 27 of the Customs Act. Thereafter, the petitioner preferred an appeal before the Commissioner of Customs (Appeals) which was partly allowed on 26.08.2014 with a direction to re-credit the amount debited from the Status Holder Incentive Scheme Licence amounting to Rs.4,40,243/- instead of cash



WEB COPY

refund. However, the order passed by the Commissioner of Customs (Appeals) has not been implemented so far. The petitioner has also sent a letter dated 07.11.2014 seeking to comply with the order dated 26.06.2014 of the Commissioner of Customs (Appeals), but no order has been passed till date.

2. The learned counsel for the petitioner would submit that a direction may be issued to the respondent to consider the letter dated 07.11.2014 of the petitioner and to pass orders on merits and in accordance with law.

3. The learned standing counsel appearing for the respondent would contend that four weeks time may be granted to enable the respondent to consider the letter dated 07.11.2014 and to pass orders thereon.

4. Having regard to the above submission of the counsel for both sides, without expressing any opinion on merits, the respondent is directed to consider the letter dated 07.11.2014 of the petitioner and pass orders on merits and in accordance with law, within a period of four week from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

rsh

To

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

+1 CC to Mr. Hari Radhakrishnan, Advocate in Sr.No.8492

+1 CC to Mr. K. Mohanamurali, Advocate, in Sr.No.8217

WP No. 77 of 2015

CNR(CO)
DRL : 23/03/2015