

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6043/2016

Seam Industries Limited, Nagpur through Shri Eshwar N. Phunde (G.M.)
...Versus...
The Commissioner, Customs & Central Excise, Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Rahul Tajne, Advocate for petitioner
Shri N.S. Bhattad, Advocate for respondents

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.
DATE : 08.12.2016

By this petition, the petitioner seeks a direction against the respondents that the show-cause-notices, dated 24.8.2015 be quashed and set aside and a further direction be issued against the respondents to grant the refund claimed by the petitioner, in pursuance of the applications made by it.

Shri Bhattad, the learned Counsel for the Department states that in view of Circular, F. No.101/20/93-CX-3, dated 4.3.1992, a refund case may not be decided till the refund cases, in which the Department has filed the appeal before the appropriate authority, are decided. It is stated that the refund claim of the petitioner is not decided and the action initiated in pursuance of the show-cause-notices is not brought to an end, as the Department has filed an appeal before the Tribunal against the grant of refund in favour of the petitioner during the previous

years. It is stated that since the issue of refund is pending before the Tribunal, no further action is taken after the issuance of the show-cause-notices.

On the other hand, the learned Counsel for the petitioner has relied on the Circular, dated 22.2.2001, bearing F. No.201/20/2000-CX-6 that provides that no refund/rebate claim should be withheld on the ground that an appeal has been filed against the order giving relief, unless stay order is obtained. It is stated that in the matter filed by the respondent – Department before the Tribunal there is no stay operating against the order granting refund.

In view of the Circular, dated 22.2.2001, relied on by the learned Counsel for the petitioner, we direct the respondent – Department to take further action on the notices issued against the petitioner and/or any other show-cause-notice that may have been served on the petitioner and consider and decide the refund applications, if pending, at the earliest.

The aforesaid exercise may be completed by the respondent - Department within ten weeks.

The writ petition is disposed of in the aforesaid terms with no order as to costs.

JUDGE

JUDGE