

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13992 to 13996 of 2016

Carol Garments,
Rep. by its Managing Partners Mr.R.Doraisamy,
13, Bridge Colony Extension,
2nd Street, Tirupur 641 604.

...Petitioner in W.P.Nos.13992 to 13994 of 2016

Brite Garments,
Rep. by Proprietor Mr.R.Doraisamy,
No.2, Bridgeway Colony Extension,
Tirupur - 641 607.

.. Petitioner in W.P.Nos.13995 & 13996 of 2016

Versus

1. The Joint Director General of Foreign Trade,
Ministry of Commerce and Industry,
Government of India,
1544, India Life Building, I Floor,
Trichy Road, Coimbatore - 641 018.

2.The Assistant Commissioner of Customs (Refund)
Office of Commissioner of Customs (Export)
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

3. The Assistant Commissioner (EPCG)
Custom house,
No.60, Rajaji Salai,
Chennai - 600 001.

.. Respondents in W.P.13992, 13993 and 13994

1. The Joint Director General of Foreign Trade,
Ministry of Commerce and Industry,
Government of India,
1544, India Life Building, I Floor,
Trichy Road, Coimbatore - 641 018.

2. The Assistant Commissioner of Customs (EPCG)
Officer of Commissioner of Customs (Export)
Custom house,
No.60, Rajaji Salai,
Chennai - 600 001.

.. Respondents in W.P.13995 and 13996/2016

Prayer for W.P.No.13992 of 2016: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the 2nd Respondent to refund the sum of Rs.7,00,000/- along with interest towards EPCG licence no.3230000368, dated 11.10.2000.

Prayer for W.P.No.13993 of 2016: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the 2nd and 3rd respondents to implement the order of the Commissioner (Appeals) passed vide C3/694/O/2011 dated 28.03.2013 and thereby order refund of an amount of Rs.4,77,500/- along with interest towards EPCG licence no.3230000625, dated 21.03.2001

Prayer for W.P.No.13994 of 2016: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the 2nd Respondent to refund the sum of Rs.1,65,000/- along with interest towards EPCG licence no.3230000388, dated 24.10.2000.

Prayer for W.P.No.13995 of 2016: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the 2nd Respondent to pass appropriate orders communicating the cancellation of the Bank Guarantee No.08/2001-2002 dated 31.05.2001 for Rs.1,30,000/- from Karnataka Bank Ltd., Tirupur branch along with interest towards EPCG licence in No.3230000684, dated 04.05.2001.

Prayer for W.P.No.13996 of 2016: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the 2nd Respondent to refund the sum of Rs.3,85,000/- along with interest towards EPCG licence no.3230000326, dated 13.09.2000.

For Petitioner :Mr.S.Raveekumar, in all petitions

For Respondents :Mr.K.Ramamoorthy,
Central Government Counsel for R1
in all W.Ps.
Mrs.R.Hemalatha, SPC for RR-2 & 3 in
W.P.Nos.13992 & 13994 of 2016
Mr.S.Rajasekar, SPC for RR2 & 3 in
W.P.No.13993 of 2016 and for R2
in W.P.No.13995 & 13996 of 2016

COMMON ORDER

Heard both sides.

2. The Prayer in W.P.No.13992 of 2016 is for issuance of a Writ of Mandamus to direct the 2nd Respondent to refund the sum of Rs.7,00,000/- along with interest towards EPCG licence no.3230000368, dated 11.10.2000.

3. The Prayer in W.P.No.13993 of 2016 is for issuance of a Writ of Mandamus to direct the 2nd and 3rd respondents to implement the order of the Commissioner (Appeals) passed vide C3/694/O/2011 dated 28.03.2013 and thereby order refund of an amount of Rs.4,77,500/- along with interest towards EPCG licence no.3230000625, dated 21.03.2001.

4. The Prayer in W.P.No.13994 of 2016 is for issuance of a Writ of Mandamus to direct the 2nd Respondent to refund the sum of Rs.1,65,000/- along with interest towards EPCG licence no.3230000388, dated 24.10.2000.

5. The Prayer in W.P.No.13995 of 2016 is for issuance of a Writ of Mandamus to direct the 2nd Respondent to pass appropriate orders communicating the cancellation of the Bank Guarantee No.08/2001-2002 dated 31.05.2001 for Rs.1,30,000/- from Karnataka Bank Ltd., Tirupur branch along with interest towards EPCG licence in No.3230000684, dated 04.05.2001.

6. The Prayer in W.P.No.13996 of 2016 is for issuance of a Writ of Mandamus to direct the 2nd Respondent to refund the sum of Rs.3,85,000/- along with interest towards EPCG licence no.3230000326, dated 13.09.2000.

7. It may not be necessary to go into the factual averments, as the only significant issue to be seen is as to whether the petitioners are entitled for refund. If the petitioners had fulfilled the Export Obligation and the first respondent has given a Discharge Certificate, then there is no reason to deny the refund.

8. The Assistant Commissioner of Customs (Gr. 7G) has given written instructions to the learned Standing Counsel for the respondents 2 and 3, in which it has been stated that the petitioners neither produced any original document nor the Department has received any original document till date, evidencing the fulfillment of export obligation in respect of the office letter dated 24.05.2016 addressed to the importer.

9. The petitioners have produced the letters addressed to the second respondent in the respective writ petitions, which have been enclosed in the typed set of papers with regard to the refund of amount(s) sought for by the respective

petitioners, enclosing the originals of the Export Obligation Discharge Certificate, and Bill of Entry, which have been received by the office of the second respondent. However, this has not been informed to the Assistant Commissioner of Customs (Gr. 7G). In any event, the authority to consider the refund claim is the second respondent in the respective writ petitions. The petitioners have discharged the Export Obligation and have also obtained necessary certificates issued by the Joint Director General of Foreign Trade, Coimbatore.

10. Accordingly, the second respondent in the respective writ petitions, is directed to get all the documents with regard to the refund claim of the petitioners and the Certificates of Discharge of Export Obligation and direct the petitioner to appear in person before the second respondent for personal hearing, in which all the records may be verified and appropriate orders be passed forthwith for refund of the amount(s) which they are admittedly entitled to, within a period of eight weeks from the date of receipt of copy of this order.

With the the above direction, the Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pvs

To

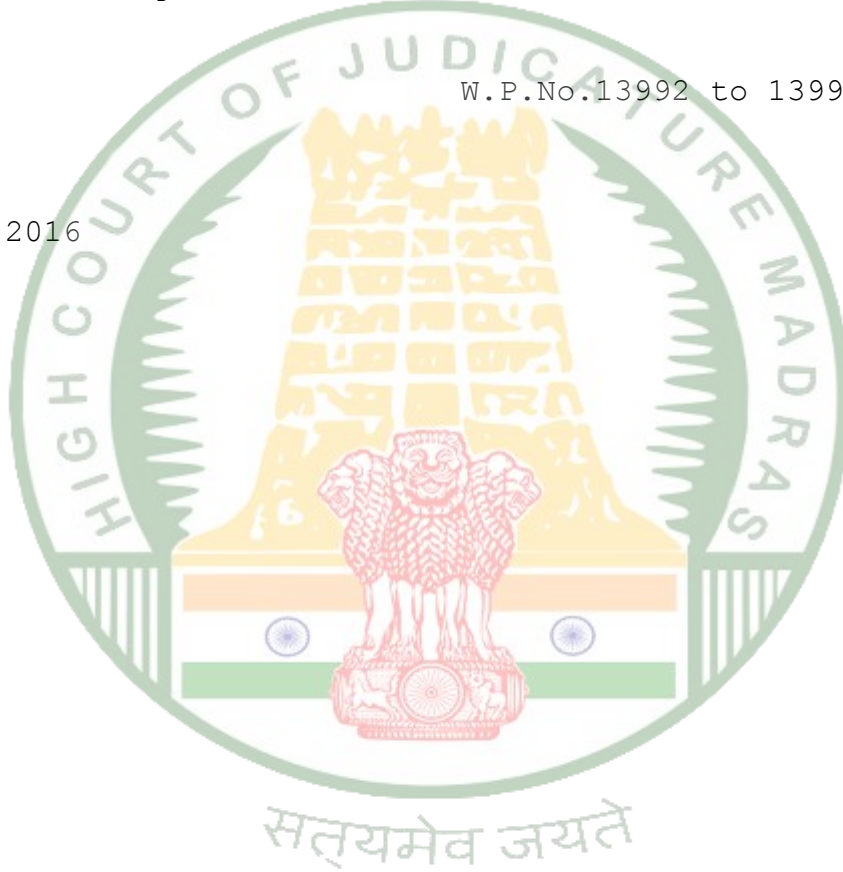
1. The Joint Director General of Foreign Trade,
Ministry of Commerce and Industry,
Government of India,
1544, India Life Building, I Floor,
Trichy Road, Coimbatore - 641 018.
2. The Assistant Commissioner of Customs (Refund)
Officer of Commissioner of Customs (Export)
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.
3. The Assistant Commissioner (EPCG)
Custom house,
No.60, Rajaji Salai,
Chennai - 600 001.

4. The Assistant Commissioner of Customs (EPCG)
Officer of Commissioner of Customs (Export)
Custom house,
No.60, Rajaji Salai,
Chennai - 600 001.

1 cc to Mr.K.Ramanamoorthy, CGSC, sr.50235
5 ccs to Mr.S.raveekumar, Advocate, sr.50225 & 50224
2 ccs to Mrs.R.Hemalatha, Advocate, sr.50073, 50074
3 ccs to Mr.S.Rajasekar, Advocate, sr.50071, 50072, 50075

W.P.No.13992 to 13996 of 2016

ca co
kra 22.09.2016



WEB COPY