

In the High Court of Judicature at Madras

Dated : 02.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14529 of 2016

Narayan Jain

...Petitioner

Vs

1.The Additional Director General,
Directorate of Revenue Intelligence,
Ministry of Finance, Zonal Unit No.25,
Chennai-17.

2.The Commissioner of Customs
(Airport), Chennai-1.

3.The Commissioner of Customs (Port),
Chennai-1.

4.The Assistant Commissioner of Customs
(Refunds), Chennai-1.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order dated 25.2.2016 issued by the fourth respondent made in S25/SAD/799/16, quash the same and consequently direct the fourth respondent to pay the balance amount of Rs.4,36,676/- along with interest at the rate of 12% from the date of order of the second respondent i.e on 19.4.2003.

For Petitioner : Mr.S.Senthilkumar

For Respondents : Ms.Mallika Srinivasan

ORDER

Heard both sides. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging an order passed by the fourth respondent rejecting their application for refund of a sum of Rs.4,36,676/- vide Order in Original dated 22.2.2016.

3. The petitioner earlier approached this Court and filed WP.No.18283 of 2004 praying for a direction to respondents 1 to 3 herein to pay the balance amount of Rs.4,36,676/- together with interest at the rate of 12% per annum from the date of the order of the second respondent herein i.e 19.4.2003 till the date of payment. Though such a prayer was sought, this Court did not grant the relief sought, but only directed the representation 19.3.2004 to be considered and disposed of the said writ petition on 2.9.2015. Pursuant thereto, the representation of the petitioner has been considered and rejected by the impugned order.

4. As against the impugned order, the petitioner has an effective alternate remedy of appeal before the Commissioner of Customs (Appeals), Chennai and without exhausting the same, the petitioner cannot approach this Court at this juncture.

5. The learned counsel for the petitioner submitted that the petitioner has approached this Court, since, in the earlier writ petition, an order was passed by this Court.

6. As pointed out earlier, though, in the earlier writ petition, the petitioner sought for a positive relief, this Court did not grant the relief, but only directed the representation to be considered. This direction has been complied with and on merits, the petitioner's case has been rejected. Therefore, the petitioner has to necessarily avail the alternate remedy.

7. Accordingly, the writ petition is dismissed as not maintainable. No costs. सत्यमेव जयते

8. However, liberty is given to the petitioner to file an appeal by the Commissioner of Customs (Appeals), Chennai and if such an appeal is preferred within a period of 30 days from the date of receipt of a copy of this order, the Commissioner of Customs (Appeals) shall consider the same on merits and in accordance with law without rejecting the same on the ground of limitation. This observation is made in the light of the fact that the writ petition has been pending before this Court so

long and the same has been filed immediately after receipt of the impugned order.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional Director General,
Directorate of Revenue Intelligence,
Ministry of Finance, Zonal Unit No.25,
Gopalakrishnan Iyer Road,
T.Nagar, Chennai-17.
 - 2.The Commissioner of Customs (Airport),
No.33, Rajaji Salai, Chennai-01
 - 3.The Commissioner of Customs (Port),
No.33, Rajaji Salai, Chennai-1.
 - 4.The Assistant Commissioner of Customs (Refunds),
No.60, Rajaji Salai, Chennai-1.
- 1 cc to M/s.Mallika Srinivasan, Advocate, sr.29370

WP.No.14529 of 2016

gj co
kra 13.06.2016

सत्यमेव जयते

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