

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.19114 to 19116 of 2016

M/s. M.M.Enterprises,
No.263, Mint Street,
Chennai - 600 003,
rep. by its Proprietor Shri Manish Mardia

....Petitioner in all W.Ps.

Vs

1. The Commissioner of Customs, Chennai - IV,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.
2. The Assistant Commissioner of Customs,
(Refunds) Commissionerate of Customs-II
Custom House, No.60, Rajaji Salai, Chennai - 600 001.

...Respondents 1 and 2 in all W.Ps.

Prayer in W.P.No.19114 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to implement the final order No.40028-40030 of 2016, dated 05.01.2016, of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, and cause refund of sum of Rs.11,16,283/- with interest at appropriate rate.

Prayer in W.P.No.19115 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to implement the final order No.40028-40030 of 2016, dated 05.01.2016, of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, and cause refund of sum of Rs.1,68,324/- with interest at appropriate rate.

and

Prayer in W.P.No.19116 of 2016 Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to implement the final order No.40028-40030

of 2016, dated 05.01.2016, of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, and cause refund of sum of Rs.1,17,183/- with interest at appropriate rate.

For Petitioner : Mr.B.Satish Sundar

For Respondents : Mr.A.P.Srinivas
Standing Counsel

Heard Mr.B.Satish Sundar, the learned counsel appearing for the petitioner, and Mr.A.P.Srinivas, learned Standing Counsel for respondents.

2. These Writ Petitions have been filed by the petitioner, seeking for implementation of the order passed by the Customs Excise & Service Tax Appellate Tribunal, (hereinafter, referred to as 'the Tribunal') which has allowed the petitioner's Appeals, by a common order, dated 05.01.2016. The result of this is that, the petitioner's claim for refund has to be considered and granted, by the respondent/Customs Department.

3. Two issues have to be taken into consideration before moulding the relief, that can be granted to the petitioner, which are discussed infra.

4. First issue is that, admittedly, the order passed by the Tribunal, is dated 05.01.2016, signed by the Officer on 12.01.2016. Even going by the said date, limitation period of six months expires only in the middle of July, 2016. Secondly, according to the reply obtained by the petitioner, under the Right to Information Act, respondent/Department has received the order on 31.05.2016. If that be the case, then, they have got six months from the said date, to file an appeal against such order. Therefore, at this juncture, the prayer sought for by the petitioner, in these Writ Petitions cannot be granted. However, it is open to the petitioner to renew their request, after the expiry of the period of six months, calculated with effect from 31.05.2016. This observation and liberty is granted to put the Department on notice that, if they wish to prefer Appeal against the order passed by the Tribunal, they should prosecute the same diligently and should not put the matter in cold storage.

In the result, the Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

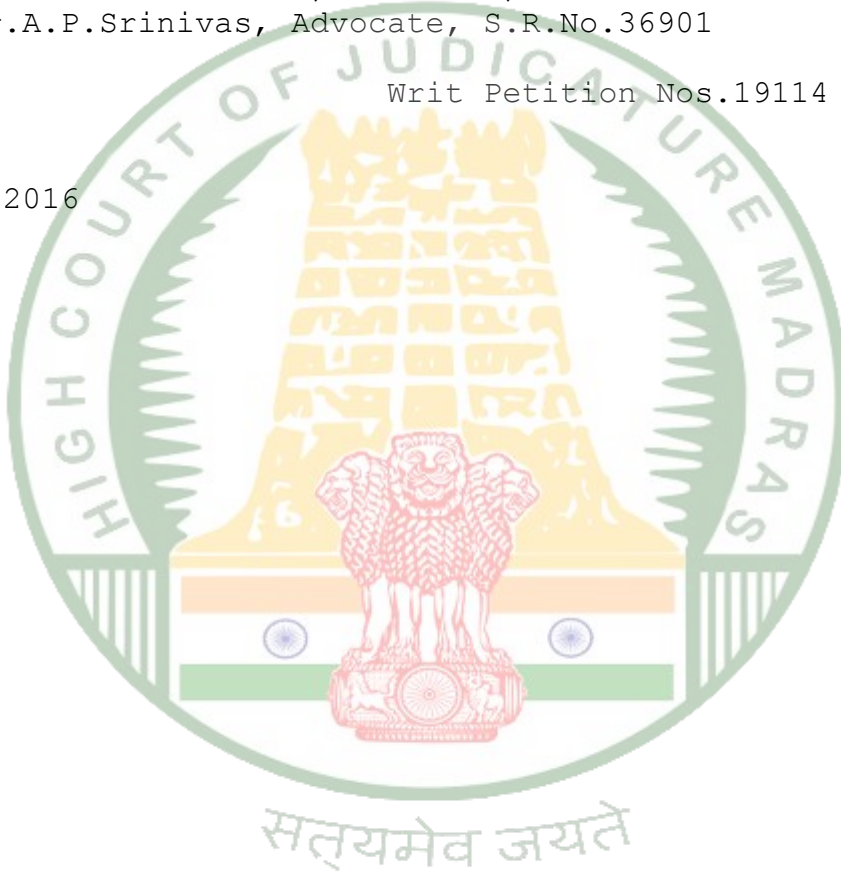
To

1. The Commissioner of Customs, Chennai - IV,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.
2. The Assistant Commissioner of Customs,
(Refunds) Commissionerate of Customs-II
Custom House, No.60, Rajaji Salai, Chennai - 600 001.

+lcc to Mr.B.Satish Sundar, Advocate, S.R.No.37216
+lcc to Mr.A.P.Srinivas, Advocate, S.R.No.36901

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