IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.20181 of 2016

M/s.Cubex Tubings Ltd.,
No.23, Katoor Road,
P.N.Palayam, Coimbatore- 641 037.
Rep by its Authorised Signatory
Shri Surender Prakash Bandari .. Petitioner

..Vs..

1.The Commissioner of Customs, Chennai-IV
Custom House,
No.60, Rajaji Salai, Chennai - 600 001.

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

Prayer:
Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents herein to cause refund of an amount of Rs.1,27,323/- with interest at appropriate rates from the date of the claim till its settlement.

For Petitioner : Mr.B.Satish Sundar

For Respondent : Mr.Vikram Ramakrishnan

ORDER

Heard Mr.B.Satish Sundar, learned counsel appearing for the petitioner and Mr.Vikram Ramakrishnan, learned standing counsel accepting notice on behalf of the respondents and with the consent of the either side, the writ petition itself is taken up for final disposal.

2.The petitioner has filed this writ petition praying for issuance of a writ of Mandamus directing the respondents herein to cause refund of an amount of Rs.1,27,323/- with interest at appropriate rates from the date of the claim till its settlement.

3.The petitioner has filed the refund claim on 28.06.2010 covering Bill of Entry No.340693 dated 23.10.2010. The second respondent rejected the said application on the ground that the description of items in the Bill of Entry do not match with the description of goods in the sales invoices. This order passed by the second respondent dated 29.09.2011 was challenged by filing an appeal before the Commissioner (Appeals) in Appeal no.1544/2014.

4.The Commissioner (Appeals) by an order dated 26.08.2014 allowed the appeal and set aside the order passed by the second respondent with consequential reliefs. That would mean that the petitioner would be entitled for the refund claim. Thereafter, the petitioner was patiently waiting for his claim to be processed and money to be paid to him, but there was no progress in the matter and therefore, the petitioner filed an application under the RTI on 10.06.2015 seeking information as to the fate of his application.

5.The reply given by the Information Officer dated 30.07.2015 shows that the files relating to the petitioner's refund application got mixed up when their office was shifted. Once again the petitioner sought for further information under the RTI Act and it was received by letter dated 17.05.2016, wherein it was stated that the file will be taken up for process, as and when it was retrieved.

6.In my view, this observation does not take the matter any further as the order passed by the Commissioner (Appeals) was in August 2014. Therefore, it appears that no diligent steps were taken by the administrative staffs to trace the file. So, the only option that would be available is to reconstruct the file and then process the application for refund, as there is no doubt that the petitioner's application was received on 28.06.2010 and on account of the order passed by the Commissioner (Appeals), the petitioner is entitled for the refund claims.

7.Accordingly, the respondents are directed to reconstruct the files pertaining to the petitioners refund claim within a period of three weeks from the date of receipt of a copy of this order and thereafter, process the same and effect the refund along with admissible interest within the period of three weeks therefrom. To facilitate the reconstruction, the respondents may call upon the petitioner to produce one set of papers.

8.The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

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To

1.The Commissioner of Customs, Chennai-IV
Custom House,
No.60, Rajaji Salai, Chennai - 600 001.

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

+1 cc to Mr.B.Satish kumar Advocate sr.32564
+1 cc to M/s.Vikaram Ramakrishnan Advocate sr.32910

W.P.No.20181 of 2016

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