

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22969 of 2016

M/s.Topsia Estates Pvt. Ltd.,
Suite No.4001, Raj Chambers,
7B Justice Dwarkanath Road,
Kolkata - 700 020.
Represented by its Authorized
Signatory Shri.R.Bharatkumar ... Petitioner

Versus

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

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondents more particularly the second respondent to implement the Order of Commissioner of Customs (Appeals) passed in Order in Appeal No.C.Cus.II.No.717/2015, dated 30.08.2015, in so far as it relates to payment of interest for delayed sanction of refund.

For Petitioner : Mr.S.Krishnanandh

For Respondents : Mr.S.R.Sundar

O R D E R

Heard Mr.S.Krishnanandh, learned counsel appearing for the petitioner and Mr.S.R.Sundar, learned counsel, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The learned counsel for the petitioner submitted that the order of this Court relied on by the Commissioner of Appeals in the case of KSJ METAL IMPEX (P) LTD., Vs. UNDER SECRETARY (CUS.) reported in 2013 (294) E.L.T.211 (Mad.) has been stayed by the Hon'ble Division Bench of this Court in Writ Appeal in W.A.No.1593 of 2014. The learned counsel further submits that without reference to the order passed in KSJ METAL IMPEX (P) LTD., Vs. UNDER SECRETARY (CUS.) (referred to supra), there are two decisions of the Hon'ble Division Bench of Delhi High Court in PIONEER INDIA ELECTRONICS (P) LTD., Vs. UNION OF INDIA reported in 2014 (301) E.L.T. 59 (Del.) and PRINCIPAL COMMISSIONER OF CUSTOMS Vs. RISO INDIA PVT. LTD., reported in 2016 (333) E.L.T. 33 (Del.), which has struck down similar provision. Therefore, the learned counsel for the petitioner seeks permission to withdraw the Writ Petition and suitably amend the prayer and challenge the order passed by the Commissioner of Customs (Appeals) on other grounds and made an endorsement to that effect.

3. In the light of the above submission and endorsement made, the Writ Petition is dismissed as withdrawn and liberty sought for is granted to the petitioner. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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+ 1 cc to Mr.S.R. Sundar, Advocate SR.37359

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SKV(CO)

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