

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.29444 of 2016

M/s.Nature Green Exports,
Represented by its Proprietor,
Mr.Jigar Zanjrukiya

... Petitioner

Vs.

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

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to implement the Final Order No.40722/2016 dated 05.05.2016 of the Honourable Tribunal by sanctioning the refund amount of Rs.65,439/- along with applicable interest.

For Petitioner : Mr.Hari Radhakrishnan
For Respondent : Mr.G.M.Syed Narullah Sheriff
SPC

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner had imported PP Foaming Balls and PP Polyhedral Hollow Balls vide bill of entry no.6957187 dated 04.10.2014 and filed a refund claim on 26.12.2014 and sought for refund of Special Additional Duty as per notification no.102/2007 – Customs dated 14.09.2007 and however, the respondent has rejected the same vide order dated 03.03.2015 and an appeal was preferred before the Commissioner of Customs (Appeals), Chennai and vide order dated 30.06.2015, the order of respondent was upheld and aggrieved by the same, the petitioner preferred an appeal before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Chennai and the said appeal was allowed vide order dated 05.05.2016.

3.The grievance expressed by the petitioner is that despite, the order passed by the CESTAT dated 05.05.2016, the refund have not been given to him and in this regard, also invoked the provisions of the Right To Information Act and the Deputy Commissioner of Customs (CPIO – Chennai – IV) has furnished information dated 14.07.2016 stating as follows:

"The file S24/SAD/4271/2014 where the refund claim was initially processed was not traceable readily, file was located on 28.06.2016. Information regarding

whether the CESTAT Final order 40722 / 2016 dt. 05.05.16 has been accepted by review is awaited. Refunds claim shall be processed as soon as the reply is received from Review cell."

4.The learned counsel appearing for the petitioner would submit that despite the order passed by the CESTAT, no response is being shown to comply with the said order and therefore, the petitioner is left with no other option, except to approach this Court by way of filing this writ petition and prays for appropriate orders.

5.Per contra, Mr.G.M.Syed Narullah Sheriff, learned Special Panel Counsel who accepts notice on behalf of the respondent would submit that all necessary and immediate steps will be taken to comply with the order passed by the CESTAT.

6.This Court in the light of the above facts and circumstances, directs the respondent to comply with the final order dated 05.05.2016, passed by the CESTAT, within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

M.SATHYANARAYANAN,J.

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

24.08.2016

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Index: Yes/ No

Internet: Yes/ No

To

The Assistant Commissioner of Customs (Refunds)
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