

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.Nos.30592 to 30594 of 2016

M/s.M.M.Enterprises,
No.263, Mint Street,
Chennai-600003. Represented by its Proprietor
Shri Manish Mardia. ..Petitioner in All Wps.

...Vs...

1. The Commissioner of Customs, Chennai-IV,
Custom House, No.60, Rajaji Salaia, Chennai-1.
2. The Asstisant Commissioner of Customs,
(Refunds), Commionerate of Customs-II,
Custom House, No.-60,
Rajaji Salai,Chennai-1. ... Respondents in all Wps.

W.P.No.30592/2016: Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the Respondents herein to act on the petitioner's representation dated 12.08.2016 and grant and pay interest at statutory rates on the refund claim in S24/SAD/2122/2012-Refunds dated 03/01/2012 till the date of disbursement of the said claim on 27.07.2016 pursuant to the final order of the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai vide common Final Order No.40028-40030/2016 dated 05.01.2016.

W.P.No.30593/2016: Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the Respondents herein to act on the petitioner's representation dated 12.08.2016 and grant and pay interest at statutory rates on the refund claim in S24/MAN/2389/2012-Refunds dated 24/02/2012 till the date of disbursement of the said claim on 27.07.2016 pursuant to the final order of the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai vide common Final Order No.40028-40030/2016 dated 05.01.2016.

W.P.No.30594/2016: Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing

the Respondents herein to act on the petitioner's representation dated 12.08.2016 and grant and pay interest at statutory rates on the refund claim in S24/SAD/2390/2012- Refunds dated 10/05/2012 till the date of disbursement of the said claim on 27.07.2016 pursuant to the final order of the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai vide common Final Order No.40028-40030/2016 dated 05.01.2016.

For Petitioner : Mr.B. Sathish Sundar
For Respondents : S.R.Sundar
(Special Panel Counsel)

COMMON ORDER

The Petitioner in all these writ petitions seeks for payment of interest at statutory rates on the refund claim which has been sanctioned to the petitioner. The petitioner challenged the order in original dated 31.12.2012 by which the petitioner's application for refund was rejected by filing Writ Petitions in W.P.Nos.4770, 2496 and 2497 of 2013. The said writ petitions were disposed of by a common order dated 03.11.2014 giving liberty to the petitioner to file an appeal before the Commissioner of Customs (Appeals).

2.The petitioner preferred an appeal to the Commissioner (Appeals) on 12.11.2014 and the Commissioner of (Appeals) by common order dated 24.12.2014 partly allowed the petitioner's appeal and partly dismissed, i.e. The portion of the refund was rejected by referring to Notification No.102/2007. This order was put to challenge before the CESTAT and the Tribunal by a common order dated 05.01.2016 allowed the appeal. The petitioner submitted a representation requesting to effect refund in terms of the said order passed by the Tribunal by representation dated 27.01.2016. This was followed by another representation dated 23.05.2016. Since the same were not considered, the petitioner filed the Writ Petitions for implementation of the said order in W.P.Nos.19114 to 19116 of 2016. The said Writ Petitions were disposed of by a common order dated 30.06.2016 finding that the appeal time for the Department to challenge the order of the Tribunal is yet to be over. Therefore, the petitioner was given liberty to renew his request later. Thereafter the second respondent accepted the order passed by the Tribunal and sanctioned refund vide-order-in original dated 13.07.2016. After receiving the refund the petitioner has given a representation on 12.08.2016, requesting for payment of interest in terms of Sections 27 and 27(A) of the Customs Act, 1962. Thus the applications are now pending consideration before the second respondent.

3.Mr.S.R.Sundar, learned Standing Counsel accepts notice on behalf of the respondents and would submit that reasonable

time may be granted to the second respondent to consider the application since the request has been made only on 12.08.2016.

4.Considering the fact that the request is still pending before the second respondent it would be appropriate for the second respondent to pass a speaking order on merits and in accordance with law.

5.In the light of the above, these writ petitions stand disposed of by directing the second respondent to consider the petitioner's application for payment of interest dated 12.08.2016 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

kp/cse

To

1. The Commissioner of Customs, Chennai-IV,
Custom House, No.60, Rajaji Salaia, Chennai-1.
2. The Asstisant Commissioner of Customs,
(Refunds), Commionerate of Customs-II,
Custom House, No.-60, Rajaji Salai, Chennai-1.

+3 CC to M/s. B. Sathish Sunder, Advocate Sr. 49630

+3 CC to MR. S.R. Sunder, Advocate, Sr. 49895

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MPI (CO)

MD : 09/09/2016

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