IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM

THE HONOURABLE MR. JUSTICE M.DURAISWAMY

Writ Petition No.3961 of 2016

M/s.Sri Vinayaka Traders
Rep. by its Partner Mrs.Mini Gopinath
12/339-34 Opp. Kumar Industries
Edathara, Palakkad, Kerala-678 611.
... Petitioner

vs.

The Assistant Commissioner of Customs (Drawback)
Custom House
No.60, Rajaji Salai, Chennai-1. ... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent to sanction the claim of duty drawback under Section 74 of the Custom Act, 1962 in respect of the goods re-exported, vide Shipping Bill No.5323063 dated 07.05.2013 within a reasonable time frame.

For Petitioner : Mr.G.Derrick Sam

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

ORDER

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus to and direct the respondent to sanction the claim of duty drawback under Section 74 of the Custom Act, 1962 in respect of the goods re-exported, vide Shipping Bill No.5323063 dated 07.05.2013 within the reasonable time.

2. According to the learned counsel for the petitioner, they imported ''Quick Oats'' vide Bill of Entry dated 20.02.2013 and paid import duty of Rs.2,97,450/-. When the imported goods were sent for analysis to Food Safety and Standards Authority of India, the authority by their letter dated 01.03.2013 came to the conclusion that the imported goods did not meet the

labelling requirements and hence, samples could not be drawn for analysis. Further the imported goods failed to comply with the provisions of the Food Safety and Standards Act, 2006 and therefore, the issue was adjudicated and the Additional Commissioner of Customs by his order dated 05.04.2013 confiscated the goods and permitted the petitioner firm to redeem the same for re-export on payment of fine of Rs.25,000/-. The petitioner redeemed the goods on payment of fine and re-exported the said goods vide Shipping Bill dated 07.05.2013 under claim of duty drawback under Section 74 of the Customs Act. According to the petitioner, inspite of numerous follow-ups for getting the duty drawback, there did not get any positive reply. On 30.07.2015, the petitioner's counsel by his letter requested the Commissioner of Customs, Chennai IV Commissionerate, to direct the Proper Officer to sanction the drawback claim without any further delay. Similarly on 30.10.2015 also the petitioner's counsel requested the respondent to sanction the drawback claim without any further delay. Inspite of several letters written by the petitioner, the respondent has not sanctioned the claim of duty drawback.

3. Mr.A.P.Srinivasan, learned Standing Counsel appearing for the respondent submitted that the respondent may be directed to consider the petitioner's case and decide the matter in accordance with law.

4. Having regard to the submissions made by the learned counsel on either side, without expressing any opinion with regard to the merits of the petitioner's case, I direct the respondent to consider the petitioner's case, taking into consideration the letters sent by the petitioner's counsel dated 30.07.2015 and 30.10.2015 with regard to the sanction of claim of duty drawback under Section 74 of the Customs Act, 1962, in respect of the goods re-exported vide Shipping Bill dated 07.05.2013 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

5. With this observation, the Writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner of Customs (Drawback)
Custom House, No.60, Rajaji Salai, Chennai-1.

+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No.1514
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.14537

Writ Petition No.3961 of 2016

mg(CO)
srg(16/03/2016)