IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM:

THE HON 'BLE MR. JUSTICE B.RAJENDRAN

Writ Petition Nos.39711 to 39713 of 2016

M/s. Goyal Impex & Industries Ltd.,
Space E, 3rd Floor, Surya Kiran Building,
No.92, The Mail, Ludhiana 141 001,
Punjab, Rep. By its Authorized Signatory,
Shri.Gagan Goyal ... Petitioner in all W.Ps.

Versus

The Assistant Commissioner of Customs
(Refunds-Sea), Custom House,
No.60, Rajaji Salai,
Chennai 600 001 .. Respondent in all W.Ps.

Prayer in W.P.No.39711 of 2016:- Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondent to process the refund claim, in respect of Bills of Entry No.6100004, dated 23.07.2016; 6296471, dated 09.08.2016; 6370917, dated 17.08.2016; 6443602 dated 22.08.2016, in terms of Section 27 of the Customs Act, 1967 and further direct the respondent to pay interest in terms of Section 27A of the Customs Act, 1962, if applicable.

Prayer in W.P.No.39712 & 39713 of 2016:- Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondent to process the refund claims, in S.R.No.4010/2016 received on 20.09.2016 and S.R.No.2351/2016 received on 07.06.2016, respectively in terms of Section 27 of the Customs Act, 1967 and further direct the respondent to pay interest in terms of Section 27A of the Customs Act, 1962, if applicable.

For Petitioner in all W.Ps. : Mr. B.Satish Sundar

For Respondent in all W.Ps. : Dr. S.Seethalakshmi

C O M M O N O R D E R

Heard Mr.B.Satish Sundar, learned counsel appearing for the petitioner and Dr.S.Seethalakshmi, learned Standing Counsel, who takes notice on behalf of the respondent, in all the writ petitions. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal.

2. The brief facts, which are necessary for the disposal of the above writ petitions, are as follows:-

The petitioner is doing import business of several commodities, including 'Textile Fabric'. The petitioner filed Bills of Entry (totalling 11 numbers) for clearance of the goods. The said Bills of Entry were assessed to appropriate duty, as per the statute provided therefor and 4% of special additional duty, in respect of the goods were leveied, assessed and collected from the petitioner, for sums of Rs.6,99,109.10, Rs.8,03,786.70 and Rs.1,44,645.00, respectively, in respect of the Bills of Entry and in lieu of payment of appropriate Sales Tax, VAT and CST. A notification in Notification No.102/2007-Cus, dated 14.09.2007, has been issued by the Central Government, for the purpose of refund of the amount of 4% special additional duty, which was paid by Importers, in lieu of payment of said Taxes, at the time of import and on production of proof of payment of such taxes, the amount of 4% special additional duty, so collected, is refunded to the respective importers. Subsequently, by Notification No.93/2008-Cus, dated 01.08.2008, the earlier Notification, dated 14.09.2007, came to be amended. The said amendment to the Notification brought a time limit for claiming refund of the 4% special additional duty incurred by the importers. With regard to the 11 Bills of Entry, the petitioner had filed a claim with the respondent (in respect of refund of the 4% special additional duty paid by them). The said refund claims were received by the Office of the respondent on 20.09.2016, 05.10.2016 and 07.06.2016, respectively. Despite passage of two months, the refund claims have neither been processed nor sanctioned nor rejected by the Office of the respondent. As no action is forthcoming in the processing of the petitioner's refund claims from the respondent, the petitioner has approached this Court by way of these writ petitions.

3. The learned counsel appearing for the petitioner, by reiterating the aforesaid facts, would submit that the non-processing of the refund claims has caused the petitioner to grave prejudice and hardship and the petitioner only seeks for a direction to the respondent to carry out / fulfill the statutory responsibility vested upon the respondent in terms of Section 27 read with Section 27A of the Customs Act, 1962. He further submitted that, it would be suffice, if a direction is issued to the respondent to consider and dispose of the Refund Applications filed by the petitioner, dated 05.10.2016, 17.09.2016 and June 2016, respectively, on merits, within a time that may be fixed by this Court.

4. This Court heard the submissions of the learned Standing Counsel appearing for the respondent on the said submissions of the learned counsel for the petitioner.

5. I have carefully considered the submissions made by the learned counsel for both sides and perused the materials available on record.

6. Considering the peculiar facts and circumstances of the case and in the light of the fact that already Refund Applications (alongwith necessary enclosures), dated 05.10.2016, 17.09.2016 and June 2016, are pending with the respondent, and in view of the submission now made by the learned counsel for the petitioner, without going into the merits or otherwise of the matter, this Court is inclined to pass the following order:-

> The respondent, in all these writ petitions, is hereby directed to consider the Refund Applications, dated 05.10.2016, 17.09.2016 and June 2016, submitted by the petitioner and pass appropriate orders on them, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, these writ petitions are disposed of. No costs.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

srk

To

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

1 cc to Dr.S. Seethaklakshmi, Advocate, sr. 65909

W.P.Nos.39711 to 39713 of 2016

LRS (CO)
kk 6/1