

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
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COCP No. 2933 of 2016 (O&M)

Date of decision: 18.11.2016

Gurmail Chand

...PETITIONER

VS.

Kishori Lal

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. H.P.S.Ghuman, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court with a grievance that in compliance with the order dated 13.01.2016 (Annexure P-1) passed by this Court in CWP No. 545 of 2016 titled as Gurmail Chand vs. Union of India and others, according to which, the representation submitted by the petitioner for redressal of his grievance was to be decided by the Commissioner, Central Excise Commissionerate-1, Chandigarh within a period of two months from the date of receipt of certified copy of the order, an order dated 05.04.2016 (Annexure P-4) has been passed by the Commissioner, which is not a speaking order as he has not decided the case on merits rather he has only intimated that because the matter is under consideration of the Board, he cannot take a decision with regard to the claim of the petitioner. This, the counsel for the petitioner asserts, is not a speaking order as was directed to be passed by this Court.

petitioner and on perusal of the order, it is apparent that new Board of Excise and Customs, Ministry of Finance, Department of Revenue is the authority, which has to finalize the issue once the matter is pending with the said authority. The Commissioner has rightly not proceeded to decide the case on merits rather he has intimated the petitioner by way of order that he is not in a position to decide the matter as the matter is under consideration of the Board. Whatever the jurisdiction he has, the same has been duly exercised by him. It, therefore, cannot be said to be an order in violation of the directions issued by this Court on 13.01.2016 especially when no directions were issued to the Board.

In view of the above, the petitioner may avail of his remedy, in accordance with law, including challenging the order dated 05.04.2016 (Annexure P-4) passed by the respondent.

Disposed of accordingly.

November 18, 2016

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes
Whether Reportable:	No