IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5292 of 2016

Date of Decision: 18.3.2016

M/s S.S.B. Enterprises, Amritsar

....Petitioner.

Versus

Union of India and another

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.

PRESENT: Mr. Jagmohan Bansal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondent No.2 to decide the application dated 18.11.2015 (Annexure P-1).

2. The petitioner is engaged in import and trading of different kind of goods. The respondents in exercise of power conferred under Section 3(5) of the Customs Tariff Act, 1975 (in short “the Act”) issued notification dated 1.3.2006 levying Special Additional Customs Duty (SAD) at the rate of 4% on all the goods specified under First Schedule to the Act. The SAD was levied to the sales tax, value added tax, local tax leviable on sale or purchase or transportation of like goods in India. The petitioner in its ordinary course of business during 2012-13 and 2013-14 imported 20 consignments of sugar. All the Bills of Entry were

filed at Land Customs Station, Attari Road, Amritsar. The petitioner at the time of clearance of goods paid SAD at the rate of 4% apart from other custom duties. As per entry at Sr. No.12, all goods, i.e. sugar, unmanufactured tobacco, manufactured tobacco, cigars, cigarettes, woven fabrics etc. specified in the 1st Schedule to the Additional Duty of Excise (Goods of Special Importance) Act, 1957 are also exempt from SAD. In view of Entry 12, the respondents could not charge SAD on sugar as it was exempted but they still charged. Accordingly, the petitioner moved an application dated 18.11.2015 (Annexure P-1) before respondent No.2 under Section 149 of the Customs Act, 1962 for amendment of Bills of Entry, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved an application dated 18.11.2015 (Annexure P-1) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the application dated 18.11.2015 (Annexure P-1), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 18, 2016 **(RAJ RAHUL GARG)**
gbs **JUDGE**