IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.33631 of 2004

M/s.Sri Selvan Textiles
Rep. By it Partner Mr.K.Namasivayan
Karur-639002 ...Petitioner

Vs.

1.The Deputy Commissioner of Customs
(DBK-EDI), Custom House,
No.60, Rajaji Salai, Chennai-600 001.

2.The Commissioner of Customs (Appeals),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

3.The Joint Secretary to the Government of India,
Revision Application,
Ministry of Finance, Department of Revenue,
4th Floor, Jeevan Deep Building,
Sansad Marg (Parliament Street),
New Delhi-110 001. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the 1st respondent the Deputy Commissioner of Customs (DBK-EDI), in Order-in-Original No.12/2003, dated 20.01.2003 has confirmed by the 2nd respondent the Commissioner of Customs (Appeals), in Appeal No.C48/142/D/2003-SEA, dated 19.12.2003 and confirmed by the 3rd respondent the Joint Secretary (Revision Application), in Order No.423/2004, dated 10.09.2004 in Revision Application F.No.373/48/DBK/2004-RA and quash the same.

For Petitioner : Mr.A.K.Jayaraj
For Respondents : Mr.S.Rajasekar
Senior Panel Counsel

O R D E R

Heard Mr.A.K.Jayaraj, learned counsel appearing for the petitioner and Mr.S.Rajasekar, learned Senior Panel Counsel appearing for the respondents.

2. The petitioner is aggrieved by an order passed by the 1st respondent, confirmed in an appeal by the 2nd respondent and further confirmed by the 3rd respondent.

3. At the out set, this Court will point out that the correctness of the impugned orders cannot be assessed by this Court, as if exercising jurisdiction as an appellate Court over the orders passed by the revisional authority.

4. Admittedly, two fact finding authorities, namely, the 1st respondent and the 2nd respondent held against the petitioner. The 3rd respondent which is a revisional authority has also considered the factual situation and pointed out that the sale proceeds has not been realised by the petitioner and when the sale proceeds are realised by the exporter after the amount of drawback has been recovered under Sub Rule[2] or Sub Rule [3] and the exporter has not produce evidence about the realisation from one year from the date of such recovery of the amount of drawback so recovered shall be repaid to the Assistant Commissioner of Customs.

5. Further, the Revisional Authority pointed out that admittedly, the sale proceeds have not been realised by the petitioner even as of the date, when the Revisional Authority passed the order on 19.12.2003. Thus, in the light of the factual finding recorded by all the authorities which are all concurrent, there is no ground made by the petitioner to interfere. Accordingly, the Writ Petition fails and stands dismissed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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New Delhi-110 001.

+ 1 cc to Mr.S.Rajasekar, Advocate,SR.55215

+ 1 cc to Mr.A.K.Jayaraj, Advocate,SR.54260

RJ(CO)
NR 31/08/2017