

In the High Court of Judicature at Madras

Dated : 18.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.9581 of 2018

M/s.Sri Vinayaka Enterprises, rep.
by its Proprietor Mr.K.Narendra

...Petitioner

Vs

1.The Customs, Excise & Service
Tax Appellate Tribunal, No.26,
Sastri Bhavan, Annexe Building,
Haddows Road, Chennai-6.

2.The Commissioner of Customs
(Seaport-Imports), Custom
House, No.60, Rajaji Salai,
Chennai-1.

3.The Assistant Commissioner of
Customs (Refunds), Refund
Section, Custom House, No.60,
Rajaji Salai, Chennai-1.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to refund an amount of Rs.13,50,000/- claimed by the petitioner herein vide Receipt No.SR 4929/17 dated 24.11.2017 by giving effect to the order passed by the first respondent CESTAT, Chennai vide final order No.41112-41113/2017 in Appeal No.C/262/2008/DB dated 03.7.2017 in so far as the petitioner is concerned.

For Petitioner : Mr.A.K.Jayaraj

For Respondents: Mr.Pramod Kumar Chopda, SPC

ORDER

Mr.Pramod Kumar Chopda, learned Senior Panel Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner seeks a direction to the respondents to refund an amount of Rs.13.50 lakhs by giving effect to the order passed by the first respondent dated 03.7.2017. By the said

order, the first respondent partly allowed the appeal filed by the petitioner. Consequently, the petitioner is entitled to refund of the amount paid by the petitioner over and above the amount, which was confirmed by the Tribunal towards redemption fine and penalty. On receipt of the order passed by the Tribunal, the petitioner filed an application dated 18.11.2017 before the third respondent for refund of eligible redemption fine and penalty in the requisite format and it was received on 24.11.2017, as could be seen from the acknowledgement issued by the Department.

3. Since the matter is pending consideration before the third respondent, the writ petition is disposed of with a direction to the third respondent to consider the application filed by the petitioner dated 18.11.2017 for refund and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Customs, Excise & Service Tax Appellate Tribunal, No.26, Sastri Bhavan, Annexe Building, Haddows Road, Chennai-6.
- 2.The Commissioner of Customs (Seaport-Imports), Custom House, No.60, Rajaji Salai, Chennai-1.
- 3.The Assistant Commissioner of Customs (Refunds), Refund Section, Custom House, No.60, Rajaji Salai, Chennai-1.

RS

+1cc to Mr.A.K.Jayaraj, Advocate Sr.No.28760
+1cc to Mr.T.Pramodkumar Chopda, Sr.No.28825

sm:20.4.2018

W.P.No.9581 of 2018

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