

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Thirteenth day of August Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE K.RAVICHANDRABAABU

WP NO.24563 OF 2013

AND MP.1 OF 2013

THE CHIEF ENGINEER /MECH/COAL [PETITIONER IN BOTH THE PETITIONS]
TAMILNADU ELECTRICITY BOARD,
IIND FLOOR, NPKRR MAALIGAI,
NO.144, ANNA SALAI, CHENNAI-2.

Vs

1 THE DEPUTY COMMISSIONER OF [RESPONDENTS IN BOTH THE PETITIONS]
CUSTOMS (REFUNDS),
CUSTOMS HOUSE, TUTICORIN.

2 THE COMMISSIONER OF CUSTOMS
(APPEALS), O/O. THE COMMISSIONER OF CUSTOMS
& CENTRAL EXCISE (APPEALS), NO.1, WILLIAMS
ROAD, CANTONMET, TIRUCHIRAPPALLI 620 001.

3 THE CUSTOMS EXCISE & SERVICE
TAX APPELLATE TRIBUNAL, SOUTHERN REGIONAL
BENCH, SHASTRI BHAVAN, ANNEXE BUILDING,
1ST FLOOR, 26 HADDOWS ROAD, CHENNAI-6.

Writ Petitions under Article 226 of the Constitution of India
praying that in these circumstances stated therein and in the
respective affidavits filed therewith the High Court will be
pleased to

issue a WRIT OF CERTIORARIFIED MANDAMSU or any other
appropriate writ or order or direction in the nature of writ,
calling for the records of the 3rd respondent relating to its Final
Order No.40086/2013 dated 8.3.2013 passed in Appeal No.C/14/2011
and to quash the aforesaid order passed by the 3rd respondent the
Customs Excise & Service Tax Appellate Tribunal, Chennai,
confirming the order passed by the 2nd respondent, Commissioner of
Customs (Appeal) Trichy made in Appeal A.No.C24/79/ 2010-TTN(CUS)
in Order in Appeal No.17/2011 dated 28.2.2011 and to direct the 1st
respondent the Deputy Commissioner of Customs (refunds), Tuticorin,
to refund the amount of Rs.8,03,024/- with interest, from the date

of their refund claim petition (in WP.No.24563/2013)and;

(ii) to grant an order of interim direction directing the 1st respondent to refund the sum of Rs.8,03,024/- to the petitioner (in MP.1/13) pending disposal of the above WP.No.24563/13 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.M.ABDUL NAZEER Advocate for the petitioner in both the petitions the court made the following order:-

This writ petition is filed challenging the final order passed by the Customs Excise and Service Tax Appellate Tribunal, Chennai, in Appeal No.C/14/2011 dated 08.03.2013, confirming the order dated 28.02.2011 passed by the Commissioner of Customs (Appeal).

2. Heard both sides.

3. There is no dispute to the fact that as against the final order passed by the CESTAT, a statutory Civil Miscellaneous Appeal lies before this Court, to be heard by a Division Bench of this Court. Therefore, the present writ petition is not maintainable.

4. The learned counsel for the petitioner fairly submitted that the writ petition itself can be converted into Civil Miscellaneous Appeal and posted before a Division Bench of this Court, so that the petitioner can agitate the matter before a Division Bench, by raising substantial questions of law.

5. Hence, the Registry is directed to convert this writ petition as Civil Miscellaneous Appeal, after obtaining grounds of appeal along with substantial questions of law from the learned counsel for the petitioner. Such grounds of appeal along with substantial questions of law should be filed before the Registry within a period of three weeks from the date of receipt of a copy of this order.

6. The learned Senior Panel counsel for the respondents is not having any objection to convert this writ petition into Civil Miscellaneous Appeal.

-sd/-

13/08/2018

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE DEPUTY COMMISSIONER OF
CUSTOMS (REFUNDS),
CUSTOMS HOUSE, TUTICORIN.

2 THE COMMISSIONER OF CUSTOMS
(APPEALS), O/O. THE COMMISSIONER OF CUSTOMS
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C.C. to M/S.M.ABDUL NAZEER Advocate on payment of necessary
charges

The Government Advocate, High Court, Madras - 104.

Order

in

WP.24563/2013

and MP.1/2013

Date :13/08/2018

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
SDR 14.08.2018

सत्यमेव जयते

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