IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2018
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
W.P.No.3480 of 2012

Texworth International, rep. by
its Proprietor, Vikram Jain,
CK 36/2, Banusphatak,
Varanasi-221 001. ... Petitioner

Vs.

Assistant Commissioner of
Customs (DEPB),
No.60, Rajaji Salai,
Chennai-600 001. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondent to re-credit an amount of Rs.3,25,474.42 in DEPB which was originally paid as SAD and which is provisionally assessed in Bill of Entry No.5085476 dated 02.11.2011, filed by the petitioner.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.K.S.Ramaswamy,
Junior Panel Counsel

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O R D E R

Heard Mr.Joseph Prabakar, learned counsel for the petitioner and Mr.K.S.Ramaswamy, learned Junior Panel Counsel for the respondent.

2.The petitioner is aggrieved by an endorsement made by the respondent in his representation dated 01.12.2011, stating that the petitioner has to approach the appellate authority by filing appeal against the order of assessment of the Bill of Entry dated 02.11.2011, bearing No.5085476. The petitioner's case is that there is a technical error, which has occurred on account of computer glitch.

3.Learned counsel for the petitioner to substantiate the same, invited the attention of this Court to the check list furnished by the petitioner dated 02.11.2011 pertaining to the said bill of entry. In the check list, in the column additional duty, the petitioner has referred to Customs Notification No.20/2006, Certificate No.21 and the rate of duty is 0%. However, when the bill of entry was assessed and released by the Departmental generated system, it is shown that the additional duty (Import) in Notification No.19/2006, the rate of duty is 4%.

4.Further, to strengthen the case, the learned counsel for the petitioner refers to the bills of entry, which were filed earlier (i.e.,) on 10.05.2011, 22.07.2011 and 25.07.2011 and the bills of entry, which were filed subsequently (i.e.,) on 02.11.2011 and 18.11.2011 as well as on 17.12.2011 and on 23.11.2012, which show that the Notification No.20/2006, Certificate No.21 was referred to and the rate of duty was 'Nil'.

5.Considering the fact that the petitioner points out a technical error, which appears to be prima facie correct on account of past transactions as well as transactions done subsequently to the impugned bill of entry. The respondent should consider the petitioner's request and take a decision in accordance with law. However, since I find that the representation dated 01.12.2011 is bereft of particulars, I direct the petitioner to submit their fresh representation along with a copy of this order to the respondent, who shall take note of the facts stated in the representation, verify the correctness of the same and if a technical error has occurred on account of computer glitch, the same shall be rectified and consequential relief of refund be granted to the petitioner. The above direction shall be complied with by the respondent/Department within a period of three months from the date of receipt of a copy of this order.

With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

abr

To
Assistant Commissioner of
Customs (DEPB),
No.60, Rajaji Salai,
Chennai-600 001.

+ 1 cc TO JOSEPH PRABHAKAR-Advocate SR. No. 4706
+ 1 CC to K.S.Ramasamy -Advocate Sr.No.4422

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SMN(09/02/2018)