

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.13205 of 2010

M/s. Agnice Fire Protection Limited
represented by its Sr. Manager
2, First Main Road, G.K.Industrial Estate
Alapakkam, Porur
Chennai - 600 116. ... Petitioner

Versus

1. The Additional General of Foreign Trade
Ministry of Commerce and Industry
Udyog Bhavan
New Delhi.
2. Zonal Joint Director General of Foreign Trade
Shastri Bhavan Annexe
26, Haddows Road
Chennai 600 006. ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 20.10.2009 in F.No.11/2/2009-10/ECA.I/2021, 2022 passed by the first respondent and to direct the second respondent to sanction the refund of Terminal Excise Duty Refund to the extent of duty paid on pipes purchased from M/s.Jindal Pipes Ltd., Gaziabad.

For Petitioner : Mr.Hari Radha Krishnan

For Respondents : M/s.N.K.Nithila Vani CGSC

ORDER

This Writ Petition is filed praying to issue a Writ of Certiorarified Mandamus, to quash the impugned order dated 20.10.2009 in F.No.11/2/2009-10/ECA.I/2021, 2022 passed by the first respondent and to direct the second respondent to sanction the refund of Terminal Excise Duty to the extent of duty paid on pipes purchased from M/s.Jindal Pipes Ltd., Gaziabad.

2. The case of the petitioner is that the petitioner company is providing fire protection solution services and they were approached by M/s.Reliance Infrastructure Ltd., Mumbai, who is the main contractor for Rajiv Gandhi Thermal Power Plant, Khedar, Hissar, for design, engineering and manufacturing and supply of fire protection system at Rajiv Gandhi Thermal Power Plant, Khedar, Hisar. The petitioner company, by order No. REL/Hisar/CPG/SKM/VKA/0708/2108 dated 27.12.2007 with M/s.Reliance Infrastructure Limited erected the fire fighting system at Rajiv Gandhi Thermal Power Plant, Khedar, Hisar, by procuring ERW and GI pipes from M/s.Jindal Pipes Ltd., Gaziabad, and had paid excise duty for the same.

3. It is the further case of the petitioner that on December 15, 2008, the petitioner had filed an application to the second respondent, seeking refund of Terminal Excise Duty to the extent of duty paid on pipes purchased from M/s.Jindal Pipes Ltd., Gaziabad. The second respondent in F.No.04/41/083/00089/AM09 dated 24.02.2009, had rejected the prayer of refund of Terminal Excise Duty.

4. It was further contended that the petitioner company filed an appeal under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 against the order of the Joint Director General of Foreign Trade, Chennai, dated 24.02.2009 before the first respondent herein. After considering the said appeal, the first respondent in F.No.11/2/2009-10/ECA.I/2021, 2022 had rejected the appeal on the ground that since the supplies were made under International Competitive Bidding, the supplies were entitled to be exempted from Terminal Excise Duty and that the refund could only be allowed in 'other cases'.

5. The petitioner has challenged the said rejection order in this Writ Petition under various grounds stating that the supply made in the instant case were made under the procedure of International Competitive Bidding and no Terminal Excise Duty is leviable on the subject goods and are exempted from payment of duty. The payment made by the petitioner inadvertently has to be refunded as per para 8.3(c) of the Foreign Trade Policy, which provides for deemed export benefits by providing upfront exemption of Terminal Excise Duty, where supplies are made for purchase in International Competitive Bidding. Para 8.3 reads as follows:-

"Deemed exports shall be eligible for any/all of following benefits in respect of manufacture and supply of goods qualifying as deemed exports subject to terms and conditions as in HBP:-

(a) Advance Authorization / Advance

Authorization for annual requirement / DFIA.

(b) Deemed Export Drawback.

(c) Exemption from Terminal Excise Duty where supplies are made against the ICB. In other cases, refund of Terminal Excise Duty will be given."

6. From the perusal of para 8.3(c), when in 'other cases', refund of Terminal Excise Duty will be given, which makes it clear that when the exemption is not utilised upfront, the same has to be refunded, when claimed.

7. It is also submitted by the learned counsel for the petitioner that Para 8.3.1 of Handbook of Procedures provides for refund of Terminal Excise Duty for the categories mentioned in para 8.2(d), (e), (f), (g), (h), (i) & (j) of the Foreign Trade Policy. This provision covers para-8.2(d), which speaks about supply of goods to projects financed by multilateral or bilateral agencies/funds as notified by the Department of Economic Affairs, Ministry of Finance under International Competitive Bidding. When the said benefit is applicable for para-8.2(d), i.e., when the goods are supplied under International Competitive Bidding, such benefit is applicable for para-8.2(g) also.

8. It is submitted by the learned counsel for the petitioner that in the original impugned order, it is stated that the petitioner company have not produced necessary particulars and that only photocopies of the documents were submitted and there are some deficiencies in the said application, but the first respondent has not communicated the same to the petitioner company. The principles of natural justice have been violated. The first respondent ought to have given an opportunity to the petitioner company to rectify the mistakes or defects committed in the application, if any. Instead, the respondents have dismissed the application arbitrarily. Hence, they prayed for interference by allowing this Writ Petition.

9. A counter has been filed by the respondents, wherein, it has been stated that the petitioner, if it is aggrieved by any order, has to go for a Revision against the Order-in-Original under Section 15 and 16 of (Chapter V) of Foreign Trade (Development & Regulation) Act, 1992.

10. Section 15 of (Chapter V) of Foreign Trade (Development & Regulation) Act, 1992, speaks about the Appeal Provision for a person aggrieved by the order or decision of Adjudicating Authority, which is extracted hereunder:-

"15. Appeal -

(1) Any person aggrieved by any decision or order made by the Adjudication Authority under this Act may prefer an appeal,-

(a) Where the decision or order has been made by the Director General, to the Central Government ;

(b) Where the decision or order has been made by an officer subordinate to the Director General, to the Director General or to any officer superior to the Adjudicating Authority authorized by the Director General to hear the appeal, within a period of forty- five days from the date on which the decision or order is served on such person :

Provided that the Appellate Authority may, if it is satisfied that the

appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period, allow such appeal to be preferred within a further period of thirty days:

Provided further that in the case of an appeal against a decision or order imposing a penalty or redemption charges, no such appeal shall be entertained unless the amount of the penalty or redemption charges has been deposited by the appellant:

Provided also that, where the Appellate Authority is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate Authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such further inquiries, if any, as it may consider necessary, make such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case with such directions, as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing or imposing a penalty or redemption charges or confiscating goods of a greater value shall not be made under this section unless the appellant has been given an opportunity of making a representation, and, if he so desires, of being heard in his defense.

(3) The order made in appeal by the Appellate Authority shall be final."

11. Section 16 of (Chapter V) of Foreign Trade (Development & Regulation) Act, 1992, speaks about the provision of Revision, which reads as follows:-

"16. Revision. -

The Central Government, in the case of any decision or order, not being a decision or order made in an appeal, made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding in which a decision or an order imposing a penalty or redemption charges or adjudicating confiscation has been made and against which no appeal has been preferred, for the purpose of satisfying it self or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and made such orders thereon as may be deemed fit:

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person -

(a) Has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(b) Has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence."

Section 17 of (Chapter V) of Foreign Trade (Development & Regulation) Act, 1992, deals with the powers of adjudicating and other authorities, which is extracted hereunder:-

17. Powers of Adjudicating and other Authorities. -

(1) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:--

(a) Summoning and enforcing the attendance of witnesses;

(b) Requiring the discovery and production of any document:

(c) Requisitioning any public record or copy thereof from any court or office:

(d) Receiving evidence on affidavits; and

(e) Issuing commissions for the examination of witnesses or documents.

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order .

(4) Clerical or arithmetical mistakes in any decision or order or errors arising therein from any accidental slip or omission may at any time be corrected by the authority by which the decision or order was made, either on its own motion or on the application of any of the parties:

Provided that where any correction proposed to be made under this sub section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving to that person a reasonable opportunity of making a representation in the matter and no such correction shall be made after the expiry of

two years from the date on which such decision or order was made."

12. The respondents would further submit that the Appeal against the Order-in-Original was rejected in terms of para 8.3 (c) of Foreign Trade Policy of relevant period, following the principles of natural justice and an opportunity of personal hearing was given.

13. The respondents would also contend that the petitioner's contention that the supply of goods were made under the procedure of International Competitive Bidding, which is exempted from payment of Terminal Excise Duty in terms of para 8.3(c) of FTP, which is prevalent at that time. When the petitioner has voluntarily paid Terminal Excise Duty, when they are exempted from paying so, the second respondent has no power to refund the Terminal Excise Duty, where there is a provision of exemption in policy/procedures framed based on the recommendations of Board of Trade. It is also stated that the supply made to the eligible projects not covered under International Competitive Bidding are only entitled for refund of Terminal Excise Duty, which does not mean that refund of Terminal Excise Duty should be made, when the exercise of exemption of Terminal Excise Duty is not availed. When there is an exemption, no question of refund arises when they have paid it inadvertently. Whenever supplies made against International Competitive Bidding, they are exempted from payment of Terminal Excise Duty and the appellant cannot, at later point of time, claim for refund of the same. Against the order of Appeal dated 21.10.2009, the petitioner has to prefer a Revision before the Appellant Authority under Sections 15 and 16 (Chapter V) of FT (D & R) Act, 1992. Hence, they prayed for dismissal of the Writ Petition.

14. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

15. It could be seen from the records that the petitioner had filed an application on 15.12.2008 for refund of Terminal Excise Duty for the supply made to the Rajiv Gandhi Thermal Power Plant, Khedar, Hisar, Haryana. The Foreign Trade Development Officer for Zonal Joint Director General of Foreign Trade in the Ministry of Commerce and Industry, Department of Commerce ie., the second respondent herein has rejected the same and stated that as per para 8.3(c) of Foreign Trade Policy, the supply made under the procedure of International Competitive Bidding is exempted from payment of Terminal Excise Duty, hence,

refund of Terminal Excise Duty do not arise and the petitioner is not eligible to claim the same.

16. Against the said order of Zonal Joint Director General, an Appeal was filed before the Additional General of Foreign Trade, New Delhi, the first respondent herein. The same was considered by the first respondent and by an order dated 21.10.2009, the first respondent had observed that "according to para 8.3 to FTP, the supplies made under International Competitive Bidding are exempted from payment of Terminal Excise Duty. The appellant's contention that there is no exclusion clause either in the Foreign Trade Policy or Handbook of Procedures stating that Terminal Excise Duty cannot be granted in case of supplies made under International Competitive Bidding. Personal hearing was given to the appellant on 11.06.2009 and the same is reiterated in the written submissions filed in the appeal while seeking refund of Terminal Excise Duty. The appellate authority had examined the same and held that there is a specific clause in the purchase order and eventhough it is pointed out that the appellant is eligible for exemption from payment of Terminal Excise Duty, the claim application was deficient, and the same was not considered on the ground that there is no provision under para 9.2(c) of Foreign Trade Policy to allow such claim. It is the duty of the customers to obtain exemption from Terminal Excise Duty at the time of making supply itself and the claim made subsequently for refund of Terminal Excise Duty being the benefits provided in para-8.3(c), which stipulates that "exemption from Terminal Excise Duty, where supplies are made against International Competitive Bidding and in other cases, refund of Terminal Excise Duty will be given" could not be considered. Refund is provided for other cases and the appellant did not fall under the category of other cases and when the appellant is already exempted from Terminal Excise Duty, he cannot claim refund of Terminal Excise Duty at this juncture and hence, dismissed the same.

17. The learned counsel for the petitioner has relied on an order of this Court in "Lenovo (India) Pvt. Ltd., ..vs.. Union of India", which is reported in 2017 (346) E.L.T 12 (Mad.), wherein payment made inadvertently was ordered to be refunded. In the said matter, the issue which falls for consideration was as to whether the petitioner is entitled for refund of the Terminal Excise Duty. The fourth respondent therein, the Commissioner of Central Excise, has taken a stand that the petitioner is not entitled for refund. However, the claim for refund has been rejected by the third respondent therein by an order dated 13.08.2013, by which the petitioner's applications have been returned by referring to the Policy Circular No.16, dated 15.03.2016, which is impugned in

W.P.No.23509 of 2014. By the said Policy Circular, the second respondent therein has stated that in cases, where the relevant taxes should not have been collected at the beginning, if there has been an error or oversight committed, then the agency collecting the tax would refund it, rather than seeking reimbursement from another agency. Accordingly, it was clarified that in respect of supplies, the supply of goods under invalidation letter issued against the Advance Authorisation; supply of goods under International Competitive Bidding and supply of goods to EOUs, no refund of Terminal Excise Duty should be provided by the Regional Authorities and the DGFT, because such supplies are ab initio exempted from payment of excise duty. This Court, based on the Hon'ble Calcutta High Court Judgment in "JDGFT ...vs.. IFGL Refractories Limited" (2002 (143) E.L.T. 294 (Cal.)), wherein the Hon'ble Calcutta High Court has held that once the supply of goods falls within the category of deemed export, the unit would be entitled for refund of Terminal Excise Duty. Accordingly, subsequent amendment was made to the existing regime, which in effect liberalised the position further and exempted payment of Terminal Excise Duty altogether cannot surely be a reason for denying the claim for refund of payment already made and accordingly, those Writ Petitions were allowed and the impugned order rejecting the the claim of refund is set aside and the respondents therein were directed to process the refund claim in accordance with 2009 policy, by taking into consideration the petitioner's refund application and to pass appropriate orders.

18. In the case "Lenovo (India) Pvt. Ltd., ..vs.. Union of India", reported in 2017 (346) E.L.T 12 (Mad.) cited supra, this Court, in para-5 made the following observation:-

"5.At this juncture, the learned counsel for the fourth respondent/Commissioner of Central Excise, pointed out that the Policy Circular has been upheld by the Hon'ble Division Bench of the High Court of Bombay in the case of SADOZ PVT LTD., v. THE UNION OF INDIA AND ORS [2016-TIOL-1753-HC-MUM-CUS]. At this stage, it would be relevant to point out that some what an identical issue was considered by this Court in the case of RAJA CROWNS AND CANS PVT. LTD., v. UNION OF INDIA AND ORS [2015 (310) E.L.T.40(Mad.)]. In the said Writ Petition, the prayer sought for was to quash the decision taken by the Policy Interpretation Committee of the DGFT dated 04.12.2012. In the said meeting, the question which fell for consideration was whether the Terminal Excise Duty (TED) paid by DTA unit on supplies made to 100% EOU should be interpreted in the manner sought for the petitioner. The Court after taking into consideration the decision of the Hon'ble Division Bench of the Delhi

High Court in the case of KONDOI METAL POWERS MFT. CO. PVT. LTD., v. UNKON OF INDIA [2014 (302) E.L.T. 209(Del)], allowed the Writ Petition. At this stage it would be beneficial to refer to the operative portion of the order in RAJA CROWNS AND CANS PVT. LTD., which reads as follows:

9. After hearing the learned counsel for the parties and perusing the materials placed on record, it is seen that an identical set of facts, the Division Bench of the Delhi High Court took a decision in favour of the manufacturer. In fact, in the said case arose out of a decision taken pursuant to the resolution dated 04.12.2012 which is impugned in this writ petition. Therefore, the cause of action in the case before the Delhi High Court was the impugned resolution. Therefore, the decision rendered by the Delhi High Court binds the respondents and the Delhi High Court quoted with the approval in the decision of the Division Bench of the Calcutta High Court in JDGFT V. IFGL Refractories Limited (cited supra). At this stage, it would be beneficial to refer to the operative portion of the Judgment:

"8. It would thus be seen that supplies made to EOUs in terms of para 8.2(b) are entitled to be regarded as deemed exports. The benefits for deemed exports include inter alia exemption from TED where supplies are made against ICD (a term which means "International Competitive Bidding"). In the present case, concededly, the petitioner did not make any supplies against the ICD. Therefore, it would be covered by latter part of para 8.3 (c), i.e. Cases where refund of TED will be given. This intention is given effect by the second entry in column (a) of para 8.4 read with corresponding benefits spelt-out in column (c) which states that entitlement in terms of para 8.3 to refund is permissible. The eligibility for refund, therefore, would be in terms of these provisions and the unit has to apply for such refund under para 8.5.

9. The authorities in this case appear to have proceeded to make an order adverse to the petitioner and proceeded to hold that the petitioner was disentitled to the benefit of refund in view of some clarification given by the Policy Interpretation Committee, in its meeting of 04.12.2012 to the effect that "refund of CENVAT credit provisions are available under Excise rules and CENVAT rules which should be availed of rather than claiming refund". This reasoning appears to have prevailed with the Policy Relaxation Committee as well in this case. This Court is unable to comprehend the rationale of the decision of the second and third respondents who also seem to have suggested that the petitioner should approach the DGFT for appropriate relief or clarification. Neither of the authorities dispute that the petitioner supplied goods to the EOU at the relevant time. Its entitlement, therefore, was defined in terms of the existing policy, i.e. Refund in terms of paras 8.2, 8.3, 8.4 and 8.5 of the 2009 Policy as discussed above. That a subsequent amendment was made to the existing regime which in effect liberalized the position further and exempted payment of TED altogether cannot surely be a reason for denying the scheme for refund of payment already made. The Court also is unable to see the reason why the respondents were of the view that refund claim or benefit under the CENVAT regime under the Central Excise Act or the other statutory schemes framed under it is available. In this Court's opinion, that regime operates in its own terms and is independent of the rights and liabilities of the petitioner and the respondents under the import-export policies framed under the 1992 Act. This Court notices that its reasoning is fortified by the decision of the Division Bench of the Calcutta High

Court in JDGFT V. IFGL Refractories Limited, 2002 (143) ELT 294 (Cal). There, the Court ruled that once the supply of goods falls within the category of deemed export, the unit would be entitled to refund of TED.

10. In view of the above discussion, the impugned orders are hereby quashed. The respondents are hereby directed to process and pass appropriate orders in accordance with the 2009 policy in respect of the petitioner's refund claims made through its applications dated 29.08.2012 and 16.11.2012 within three months from today. The writ petition is allowed in the above terms. No costs."

10. In the light of the above finding, it is held that the issue involved in this writ petition is covered by the decision of the Delhi High Court and since the case before the Delhi High Court arose out of the order which was passed pursuant to the resolution impugned in this writ petition, the decision of the Delhi High Court binds the respondents. Thus, following the above referred decision, this Writ Petition is allowed and the impugned order is quashed and the third respondent is directed to process the refund claim in accordance with the 2009 Policy by taking into consideration the petitioner's refund application dated 16.08.2010 and pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed."

19. The Hon'ble Division Bench of Calcutta High Court in "Joint Director General of Foreign Trade ..vs.. IFGL Refractories Ltd." reported in 2002 (143) E.L.T. 294 (Cal.) held as follows:-

"19. In the case in hand the admitted facts are that on supply of goods to VSP petitioner comes under the category of 'Deemed Exports' defined in para 120 under Chapter X and once his goods comes under the category of 'Deemed Export' under Chapter X it is entitled

inter alia for 'refund of terminal excise duty'. The authorities in the department rejected his claim mainly on the ground that the petitioner/respondent has claimed exemption of duty under the scheme and that has been rejected and once he has paid the excise duty and entitled for refund of the excise duty, the petitioner/respondent should approach to the concerned authority in department for refund.

20.

21. When the petitioner has supplied the goods to the VSP for manufacture of final products meant for export, the petitioner/respondent is entitled for the benefit of refund of terminal excise duty. That stage comes only after payment of excise duty.

22. Therefore, merely the assessee's claim for exemption of duty and if that claim is rejected, does not deprive him from claiming the benefit given in Clause (c) in paragraph 122 i.e. refund of terminal excise duty. Both reliefs are given in different facts and circumstances and conditions to fulfil.

23. The departmental authorities have not shown that the petitioner/respondent has not fulfilled the requirement for 'refund of terminal excise duty' except that the claim of exemption duty has been rejected and relevant clause of the Handbook does not provide for refund of terminal excise duty.

24. As discussed above if assessee's claim does not fall under clause (a) of paragraph 122 of Chapter X of the Scheme, that does not bar in case assessee claims the other relief under that paragraph that is 'refund of terminal excise duty'. We also agree with Mr. Banerjee that once the scheme provides for

benefits of refund of terminal excise duty, that cannot be taken away, if the procedure has not been provided in the Handbook for refund. Handbook is a procedure to give effect to the provisions of the Scheme. If the provisions of Handbook does not provide to refund the terminal excise duty on the 'Deemed Exports' that does not mean that petitioner/respondent is not entitled for the 'refund of terminal excise duty'.

25. In case of refund of terminal excise duty, the concerned authority is DGFT to whom the petition has been moved for refund of terminal excise duty. Therefore, there is no question to approach the excise department for refund of any excise duty."

Based on the above decision, the claim of the petitioner was allowed by this Court.

20. The learned counsel for the respondents relied on the judgment of the Hon'ble Mumbai High Court in "Sandoz Private Limited and another ..vs.. The Union of India through the Secretary, Ministry of Commerce and Others" reported in legalcrystal.com/1184128, wherein it has been held that when the petitioner themselves were aware of policy circular and sought to urge that it would not be governing the controversy and for the period for which refund is claimed, then, it is clear that they were required to overcome the said stipulations and the circular itself and that having found rightly to be clarifying the obvious position, the Court has no hesitation in concluding that the refund applications were properly and correctly disallowed. The relevant portion of the said judgment is extracted hereunder:-

"41. Once there was a clear stipulation in the policy itself, then, all that the circular does is to clarify this obvious position. If there was no obligation to pay duty, then, there is no question of claiming a refund in the manner done. If this is what has been held and appears to be the essential finding, then, that is not in any manner contrary to the mandate of the provisions and particularly of Section 5 of the FTDR Act. This is not a case where anything is being stated and for the first time so as to term it as an amendment to the policy and, therefore, would apply prospectively. Insofar as the subject issue is concerned, all that the respondents have done is to

clarify that para 8.3(c) and para 6.2(b) and 6.11(c) (ii) of the FTP read harmoniously and together imply that no refund on supplies under para 8.3 is admissible. When there is an exemption, then, this refund claim was rightly disallowed. We do not think that any individual decision and in the case of a distinct assessee would, therefore, be of assistance to the present petitioners."

21. The learned counsel for the petitioner would submit that against the said order of Mumbai High Court cited by the learned counsel for the respondent, an SLP has been filed before the Hon'ble Supreme Court and notice has been issued.

22. Based on the Madras High Court's decisions relied on by the learned counsel for the petitioner, this Court is of the view that when the same issue has been allowed in favour of the assessee and against the respondent, this petitioner is also entitled for similar relief seeking for refund of the Terminal Excise Duty and respondent is directed to process the refund claim petition made, in accordance with 2009 policy and pass appropriate orders, within a period of three weeks from the date of receipt of a copy of this order.

23. In the result, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

mra

To

1. The Additional General of Foreign Trade
Ministry of Commerce and Industry
Udyog Bhavan, New Delhi.

2. Zonal Joint Director General of Foreign Trade
Shastri Bhavan Annexe
26, Haddows Road
Chennai 600 006.

+1cc to Mr. Hari Radha Krishnank , Advocate SR.No.34181

Writ Petition No.13205 of 2010

SV (CO)
GMY (30/05/2019)