

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 07.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.23852 of 2011

and

M.P.No.2 of 2011

M/s.Foundation Garments (P) Ltd.,
Rep. by its Managing Director
Ms.Annemarie Canthasamy,
F-66, Divine Grace,
Anna Nagar East,
Chennai - 600102.

....Petitioner

Vs

1. The Deputy Commissioner of
Customs (DBK-EDI),
Office of the Commissioner of
Customs (SEA PORT),
Custom House, 33, Rajaji Salai,
Chennai - 600001.

2. The Assistant Commissioner of
Customs (Drawback),
Office of the Commissioner of
Customs (SEA PORT),
Custom House, 33, Rajaji Salai,
Chennai - 600001.

3. The Assistant Commissioner of
Customs Revenue Recovery Unit (Sea Port),
Office of the Commissioner of
Customs (SEA PORT),
Custom House, 33, Rajaji Salai,
Chennai - 600001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the impugned proceedings of the 1st respondent under reference number File No:S3/XOS/10305/2003DBK-EDI dated 12.04.2004 and in the consequential proceedings of the

2nd respondent bearing reference number File No:S3/Xos/10305/2003DBK EDI dated 12.09.2006 and the consequential notice of recovery of the 3rd respondent bearing reference number F.No.RRU60/07 RRU DBK dated 21.09.2011 and quash the same.

For Petitioner : Mr.K.Krishnamoorthy

For Respondents: Mr.V.Sundareshwaran, SSC

O R D E R

The recovery notice dated 21.09.2011, calling upon the petitioner to pay the amount within a stipulated time, is under challenge in the present writ petition.

2. When the writ petition came to be admitted, by way of a conditional interim order dated 18.10.2011, the petitioner was directed to pay 50% of the demand amount to the respondents.

3. The learned counsel for the petitioner submits that pursuant to the interim order of this Court, 50% of the demand amount was paid on 08.11.2011 for which purpose, he has filed a memo dated 11.11.2011 before this Court. It is the further submission of the learned counsel for the petitioner that they are willing to pay the balance amount of the demand also and would require only some gestation time to make the payment.

4. The ground on which the present writ petition has been filed is that the original order was not served on the petitioner and as such, the recovery notice cannot be maintained. However, by taking into consideration the conduct of the petitioner in offering to pay the amount inspite of such a ground raised, this Court is inclined to take a lenient view and permit the petitioner to pay the amount.

5. In the light of the above observations, the writ petition stands disposed of, with liberty to the petitioner to make the balance payment of Rs.1,51,271/-, within a period of 12 weeks from the date of receipt of a copy of this order. Till such time, the respondents shall not take coercive action based on the original order dated 12.04.2004 for recovery of the duty

drawback. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

hvk

To

1. The Deputy Commissioner of
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Customs (SEA PORT),
Custom House, 33, Rajaji Salai,
Chennai - 600001.

+1cc to Mr.K.Krishnamoorthy, Advocate SR.No.68569

+1cc to Mr.V.Sundareshwaran, Advocate SR.No.68631

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and
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SSD (CO)
GMY (12/09/2019)