

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.18854 of 2019

M/s.LABEL KINGDOM

Rep. By its Proprietor Mr.K.V.Prasad

No.4, V.V.Koil Street

Chinmaya Nagar, Stage I

Chennai - 600 002

...Petitioner

vs.

1. The Commissioner of Customs (Seaport - Imports)

Chennai - II

Customs House, No.60, Rajaji Salai

Chennai - 600 001

2. The Assistant Commissioner of Customs (Refunds)

Appraising Refund Section

Custom House, No.60 Rajaji Salai

Chennai - 600 001

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents herein to refund an amount of Rs.5,37,635/- plus Rs.3,26,315/- and to return the Bank Guarantee amount of Rs.5,32,000/- claimed by the petitioner herein vide Refund Application Acknowledged SR No.1230/18 dated 05.10.2018 within reasonable time as fixed by this Hon'ble Court.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Mr.K.S.Ramaswamy

Standing Counsel for Customs

ORDER

Mr.A.K.Jayaraj, learned counsel on record for sole writ petitioner is before this Court. Mr.K.S.Ramaswamy, learned standing counsel for customs accepts notice on behalf of both the respondents.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. To be noted, in the light of the trajectory which the hearing has taken today, the main writ petition now turns on a very narrow compass. Therefore, short facts shorn of elaboration will suffice for appreciating this order.

4. Suffice to say that the writ petitioner imported some machinery, which this Court is informed is in the nature of a printing machine and standard accessories. Since there were certain issues pertaining to clearance of said machinery, writ petitioner had filed a writ petition in this Court being W.P.No.22410 of 2003 and this Court, by order dated 27.08.2003, directed provisional release of said machinery on certain terms. There is no dispute that the terms were complied with and machineries had since been provisionally released.

5. Be that as it may, the proceedings regarding clearance of machinery were perused and the same culminated in an order made by 'Customs, Excise and Service Tax Appellate Tribunal' ('CESTAT' for brevity), South Zonal Bench, Chennai being order dated 13.06.2017.

6. There is no dispute before this Court that the aforesaid order of CESTAT has become final and it has been given legal quietus.

7. Under such circumstances, the writ petitioner has filed a refund application dated 05.10.2018. Learned counsel for writ petitioner submits that the second respondent who has to process the refund application has not done so and there has been inaction on the part of the second respondent. Saying so, learned counsel made a simple and innocuous prayer requesting to mandamus the second respondent to consider the refund application dated 05.10.2018 made by the writ petitioner and take a decision on the same within a time frame.

8. In the light of the innocuous prayer and the narrow compass on which this matter now turns, the second respondent is directed to consider the refund application of the writ petitioner being refund application dated 05.10.2018 and pass an order on the same within four weeks from the date of receipt of a copy of this order.

This writ petition is disposed of with the above directions. No costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

gpa
To

1. The Commissioner of Customs (Seaport - Imports)
Chennai - II
Customs House, No.60, Rajaji Salai
Chennai - 600 001
2. The Assistant Commissioner of Customs (Refunds)
Appraising Refund Section
Custom House, No.60 Rajaji Salai
Chennai - 600 001

+1 CC to Mr.A.K.Jayaraj, Advocate sr 55797.
+1 CC to Mr.K.S.Ramaswamy, Advocate sr 55393.

W.P.No.18854 of 2019

BP (CO)
SP (18/07/2019)



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