



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.07.2019

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.19235 of 2019

M/s.P.V.GRAPHICS,
Rep., by its Proprietor Mr.P.Venkatrathnam,
14/7, 18th Street, Jai Nagar,
Arumbakkam,
Chennai - 600 106.

...Petitioner

vs

1.The Commissioner of Customs (Seaport-Imports)
Chennai - II,
Custom 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 to issue a Writ of Mandamus, directing the respondents herein to refund an amount of Rs.6,11,297/- totally and to return the Bank Guarantee amount of Rs.4,00,848/- claimed by the petitioner herein vide Refund Application Acknowledged SR No.1231/18, dated 05.10.2018, within reasonable time as fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Ms.R.Hemalatha
Senior Panel counsel
For R1 & R2

O R D E R

Read this in conjunction with and in continuation of earlier proceedings of this Court dated 10.07.2019, which reads as follows:



'Ms.Hemalatha, learned Senior Panel counsel accepts notice on behalf of both the respondents and seeks time to get instructions.

Learned counsel for writ petitioner submits that this matter is covered by earlier orders made by this Court in W.P.No.18854 of 2019 (Label Kingdom case) dated 03.07.2019 and W.P.No.19051 of 2019(Rajan Print House case) dated 04.07.2019.

Learned standing counsel to get instructions and make submissions on the above aspect of the matter also, list in the Motion List on 15.07.2019.'

2. Today, Mr.A.K.Jayaraj, learned counsel on record for writ petitioner and Ms.R.Hemalatha, learned Senior Panel counsel, who accepts notice on behalf of both the respondents are before this Court.

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

4. In continuation of earlier proceedings, it is submitted without any disputation or disagreement that the instant matter is squarely covered by earlier order of this Court dated 03.07.2019 made in W.P.No.18854 of 2019 (Label Kingdom case). Therefore, a similar order is being passed in the instant case.

5. 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.

6.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.22457 of 2003 and this Court, by order dated 27.08.2003, directed provisional release of said machinery on certain terms. There is no disputation that the terms were complied with and machineries had since been provisionally released.

7. Be that as it may, the proceedings regarding clearance of machinery were pursued 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 12.06.2017.



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

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9. 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.

10. 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.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Customs (Seaport-Imports)
Chennai - II,
Custom 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.

+1cc to Mr.A.K.Jayaraj, Advocate Sr.60074

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srg 22/08/2019