IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.11.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.23907 of 2019

M/s. Tagros Chemicals India Pvt.Ltd.
rep. by its AVP-Finance,
Mr.V.Kailasam
Jhaver Centre, Rajah Annamalai Building,
IV, 72, Marshalls Road,
Egmore,
Chennai - 600 008. ...Petitioner

vs.

1. The Commissioner of Customs,
Commissionerate VII,
Air Cargo Complex, New Custom House,
Meenambakkam,
Chennai - 600 027

2. The Deputy Commissioner of Customs
(Exports-Air)
Air Cargo Complex, New Custom House,
Meenambakkam,
Chennai - 600 027

3. The Joint Commissioner of Customs (ACC)
Air Cargo Complex, New Custom House,
Meenambakkam,
Chennai - 600 027

4. Goods and Service Tax Network,
East Wing 4th Floor, Worli Mark-I,
Indira Gandhi International Airport,
New Delhi - 110 037
(R4 Impleaded as per order
dated 21.10.2019 in WMP.29854/2019
in W.P.23907/2019 by KRCBJ)
...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to refund an amount of Rs.43,36,442/- claimed by the petitioner vide shipping bill No.8983981 on 28.09.2017 along with applicable interest within a reasonable time frame.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr.Rajesh Pathiyil
Senior Panel Counsel for r1 to R3
Mr.V.Sundareswaran,
Standing Counsel for R4.

O R D E R

This Writ Petition is filed seeking for a Mandamus directing the respondents to refund an amount of Rs.43,36,442/- claimed by the petitioner vide shipping bill No.8983981 dated 28.09.2017 .

2. Heard both sides.

3. The petitioner is seeking refund of the tax already paid in respect of the subject matter Shipping Bill No.8983981 dated 28.09.2017. According to the petitioner, in view of the Circular No.40/2018-Customs dated 24.10.2018, the second respondent is a competent person to decide their claim and thus, they made request in writing on 11.04.2019 before the second respondent and that the said request has not been disposed of so far.

4. Learned counsel appearing for the Revenue, on the other hand, contended that though such request was made, the second respondent is not in a position to decide such request as it is for the DG-Systems to consider and decide.

5. This Court, at this stage, is not expressing any view on the merits of the claim made by the respective parties, since admittedly the request made by the petitioner before the second respondent dated 11.04.2019 in writing, has not been disposed of by the second respondent. Needless to say that it is for the second respondent to pass orders on the said request made on merits and in accordance with law so as to enable the petitioner to work out his remedy before the appropriate forum, if such order is passed adverse to the interest of the petitioner.

6. Accordingly, the writ petition is disposed of by directing the second respondent to dispose of the petitioner's representation dated 11.04.2019 and pass appropriate orders on the same on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Before passing an order, the second respondent shall give an opportunity of hearing to the petitioner. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi

To
1. The Commissioner of Customs,
   Commissionerate VII,
   Air Cargo Complex, New Custom House,
   Meenambakkam, Chennai - 600 027

2. The Deputy Commissioner of Customs
   (Exports-Air), Air Cargo Complex, New Custom House,
   Meenambakkam, Chennai - 600 027

3. The Joint Commissioner of Customs (ACC)
   Air Cargo Complex, New Custom House,
   Meenambakkam, Chennai - 600 027

4. Goods and Service Tax Network,
   East Wing 4th Floor, Worli Mark-I,
   Indira Gandhi International Airport,
   New Delhi - 110 037

+1cc to Mr.V.Sundareswaran , Advocate SR.No. 98171
+1cc to Mr.Rajinish Pathiyal, Advocate SR.No. 97951
+1cc to Mr.Hari Radhakrishnan , Advocate SR.No. 98651

W.P.No.23907 of 2019

A.SK(26/12/2019)