

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.27379 of 2019

M/s.Kamadhenu Polymers Private Limited
Represented by Mr.Vijay Shankar Saraf
Director

...Petitioner

vs.

- 1.The Deputy Commissioner of Customs
DEEC Group (LRC Section)
Custom House, Rajaji Salai
Chennai-1.
- 2.The Assistant Commissioner (Refund)
Custom House,
Tuticorin - 628 004.
- 3.The Assistant Commissioner (EPCG)
Custom House, New Harbor Estate
Tuticorin - 628 004.
- 4.The Joint Director General of Foreign Trade
1544, India Life Building
Trichy Road,
Coimbatore - 341 018.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to pass orders on the representations dated 06.05.2019 and 25.06.2019 at the earliest and after grant of personal hearing.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.M.Santhanaraman
standing counsel for R1 to R3
Mr.V.Athikesavan
Central Government Counsel for R4

O R D E R

Mr.M.Santhanaraman, learned standing counsel takes notice for the respondents 1 to 3. Mr.V.Athikesavan, learned Central Government Counsel takes notice for the fourth respondent. By consent of the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for a mandamus directing the first respondent to pass orders on the representations dated 06.05.2019 and 25.06.2019.

3. Heard both sides.

4. The case of the petitioner is as follows:

The petitioner is a trader, engaged in the business of trading of plastic granules. According to the petitioner, in pursuant to the order passed by the Customs, Excise and Service Tax Appellate Tribunal, in final order No.41171/2017 dated 05.07.2017, the petitioner made a refund claim of Rs.5,69,605/- to the second respondent, who in turn passed an order in original dated 28.11.2017 giving effect to the order of the Tribunal. Subsequently, the third respondent passed an order on 20.07.2018 re-crediting the amounts in FPS script and also enclosed the screen shot showing the balance amount of Rs.4,62,954/-, which was directed to be re-credited by the Tribunal. After revalidation, the petitioner used a part of the credit for payment of duty against bill of entry No.2078412 dated 16.02.2019 for Rs.2,74,745/- and hence, the balance of credit availed ought to be Rs.1,88,209/-. However, the authorities had wrongly debited Rs.1,88,208/- on 15.02.2019 and after the wrong debit, the balance credit available was Rs.2,74,746/- only. Therefore, the petitioner, on coming to know about the said mistake, made a representation on 06.05.2019 followed by another representation on 25.06.2019 for rectifying the mistake. Since those representation were not considered, the present writ petition is filed with the relief as stated supra.

5. Considering the above stated facts and circumstances, without expressing any view on the merits of the claim made by the petitioner, this Writ Petition is disposed of, only by directing the first respondent to consider those representations

filed by the petitioner and pass orders on the same on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

- 1.The Deputy Commissioner of Customs
DEEC Group (LRC Section)
Custom House, Rajaji Salai
Chennai-1.
- 2.The Assistant Commissioner (Refund)
Custom House,
Tuticorin - 628 004.
- 3.The Assistant Commissioner (EPCG)
Custom House, New Harbor Estate
Tuticorin - 628 004.
- 4.The Joint Director General of Foreign Trade
1544, India Life Building
Trichy Road, Coimbatore - 341 018.

+1cc to Mr.M.Santhanaraman, Advocate, S.R.No.79416

+1cc to Mr.V.Srikanth, Advocate, S.R.No.79069

W.P.No.27379 of 2019

SV(CO)
CS/10/10/2019

WEB COPY