IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.09.2019
CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH
W.P.Nos.3700, 2431 to 2433 of 2017 and
37790, 43838 & 43848 of 2016
and
WMP. Nos.32385 to 32387, 37663 to 37665,
37673 to 37675 of 2016 and 2408, 2409, 2411, 2412,
2414, 2415 & 3748 of 2017

M/s.Goyal Impex and Industries Limited,
5/IV, The Mall, Ludhiana -141 001
Rep. By its Authorised Signatory,
Shri Gagan Goyal
...Petitioner
W.P. No.3700 of 2017

M/s.DO Best Infoway
Space E, 3rd Floor
Surya kiran Building
No.92 The Mail Ludhiana-141001,
Punjab rep by its authorized Signatory
Shri.Gagan Goyal ..Petitioner in
WP.No.43848/2016

M/s.HLG Trading Space 'E'
Third floor, Suryakiran Building
92 The mall Luduiana 141001
represented by its Authorised
Signatory Shri Gagan Goyal ...Petitioner in
WP.No.37790/2016
43838/2016

M/s.G.T.Jayanti Agrochem
(India) Pvt. Ltd. Silver Cascade Complex
NO.41 Strotten Muthiah Mudali Street
Sowcarpet Chennai-79 rep. by its Director
Shri.Jayanti Lal C.Dos ...Petitioner in
WP.No.2431 to 2433/2017

Vs

The Assistant Commissioner of Customs
(Refunds-Sea), Office of the Commissioner
of Customs, Chennai -IV, Custom House,
No.60, Rajaji Salai, Chennai – 600 001.

The Commissioner of Customs (Appeals-II)
Custom House No.60 Rajaji Salai
Chennai-600 001

The Assistant Commissioner of Customs(Refund-Sea)
Custom House No.60 Rajaji Salai
Chennai-600 001 ..Respondents in WP.No.2431 to 2433/17 43848,43838/2016 & 37790/2016

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, calling for the records of the respondent, leading to issuance of Show Cause Notice No.01/2017 dated 25.01.2017 issued from File No.S24/SAD/1954/2016 - Ref., and quash the same as the respondent had become functus officio and for being contrary to the statutory provisions more particularly, Section 3(5) of the Customs Tariff Act, 1975.

WP.No.2431 of 2017:calling for the records 1st respondent leading to issuance of order in Appeal in C.Cus.II No.755/2016 dated 4.8.2016 in No.C3-II/ 597/R/2016-SEA and also calling for the records of the 2nd respondent leading to issuance of Show Cause Cum Demand Notice No.41/2016 dated 8.7.2016 in F.No.S24/ SAD/381/16-REF further leading to issuance of Confirmed Demand Notice No.22/2016 dated 26.10.2016 in F.No.S24/ SAD/381/2016-Refunds and quash the same for being contrary to the statutory provisions more particularly Section 3(5) of the Customs Tariff Act 1975

WP.No.2432 of 2017:calling for the records 1st respondent leading to issuance of order in Appeal in C.Cus.II No.1062/2016 dated 1.11.2016 in No.C3-II/ 698/R/2016-SEA and also calling for the records of the 2nd respondent leading to issuance of Show Cause Cum Demand Notice No.48/2016 dated 5.8.2016 in F.No.S24/ SAD/1064/16-REF further leading to issuance of Confirmed Demand Notice No.26/2016 dated 22.11.2016 in F.No.S24/ SAD/1064/2016-Refunds and quash the same for being contrary to the statutory provisions more particularly Section 3(5) of the Customs Tariff Act 1975

WP.NO.2433 of 2017:
calling for the records 1st respondent leading to issuance of order in Appeal in C.Cus.II No.1063/2016 dated 1.11.2016 in No.C3-II/ 701/R/2016-SEA and also calling for the records of the 2nd respondent leading to issuance of Show Cause Cum Demand Notice No.51/2016 dated 10.8.2016 in F.No.S25/ SAD/2224/2016-REF further leading to issuance of Confirmed Demand Notice No.27/2016 dated 22.11.2016 in F.No.S25/ SAD/2224/2016-Refunds and quash the same for being contrary to the statutory provisions more particularly Section 3(5) of the Customs Tariff Act 1975

WP.No.37790 of 2016:call for the records 1st respondent leading to issuance of Order in Appeal in C.Cus.-II NO. 729/2016 dt 20.7.2016 and also call for the record of the 2nd respondent leading to issuance of Show Cause cum Demand Notice No. 24/2016 dt 24.5.2016 and quash the same for being contrary to the statutory provisions more particularly Section 3 (5) of the Customs Tariff Act 1975

WP.No.43838 of 2016:Call for the records 1st respondent leading to issuance of order in appeal in C.Cus-II No.730/2016 dated 20.07.2016 and also call for the records of the 2nd respondent leading to issuance of Show Cause Cum Demand Notice No.28/2016 dated 01.06.2016 further leading to issuance of confirmed demand notice No.17/2016 F.No.S24/ SAD/4222/ 2015 - Refunds dated 24.10.2016 and quash the same for being contrary to the statutory provisions more particularly Section 3(5) of the Customs Tariff Act 1975

WP.No.43848 of 2016:Call for the records 1st Respondent leading to issuance of Order in Appeal in C.Cus.II No.731/ 2016 dated 20.07.2016 and also call for the records of the 2nd respondent leading to issuance of Show Cause Cum Demand Notice No.04/2016 dated 24.02.2016 further leading to issuance of confirmed Demand Notice NO.18/2016 F. No.S24/ SAD/ 2146/ 2015- Refunds dated 24.10.2016 and quash the same for being contrary to the statutory provisions more particularly Section 3(5) of the Customs Tariff Act 1975

For Petitioner : Mr.N.Balaji and V.Santharam
WP.No.3700 of 2017,
WP.No.37790/2016,43848,
43838/2016,

For Petitioner : S.Krishnanandh & V.Santhanam
WP.No.2431/17 to 2433/2017

For Respondents : Mr.Hema Muralikrishnan,
Senior Standing Counsel
in W.P. No.3700 of 2017
Mr.A.P.Srinivas, CGSC
in WP. No.37790 of 2016
Mr.K.Ravi, CGSC
in W.P. Nos.43838 & 43848 of 2016
Mr.B.Rabu Manohar, SCGSC
in W.P. Nos.2431 to 2433 of 2017

C O M M O N   O R D E R

The petitioners in this batch of writ petitions challenge notices/order-in-original/appellate orders proposing to reject/rejecting the request for refund of special additional duty.

2. Mr.A.P.Srinivas, learned Central Government Standing Counsel for the respondents fairly points out that the issue of refund of special additional duty was considered by the Customs, Central Excise and Service Tax Appellate Tribunal vide order dated 02.06.2017 and the issues decided in favour of the importer. This order has been accepted by the Department.

3. These Writ Petitions are thus liable to be allowed and I do so. The petitioners may seek refund of the special additional duty paid by way of an applications to be filed within a period of two (2) weeks from today. Upon receipt

thereof, necessary orders for refund shall be passed by the respondent. Connected Miscellaneous Petitions are closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rkp

To

1.The Assistant Commissioner of Customs
(Refunds-Sea), Office of the Commissioner
of Customs, Chennai -IV, Custom House,
No.60, Rajaji Salai, Chennai – 600 001.

2.The Commissioner of Customs(Appeals-II) Custom House
No.60 Rajaji Salai chennai-600 001

3.The Assistant Commissioner of Customs (Refund-Sea)
Custom House, No.60 Rajaji Salai Chennai 600 001

+1 cc to M/s.A.P.Srinivas Advocate sr81866

+1 cc to M/s.Hema Murali krishnan Advocate sr81722

W.P.Nos.3700, 2431 to 2433 of 2017 and
37790, 43838 & 43848 of 2016
and
WMP. Nos.32385 to 32387, 37663 to 37665,
37673 to 37675 of 2016 and 2408, 2409, 2411, 2412,
2414, 2415 & 3748 of 2017

jp(co)
aa05/11/2019