

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.254, 255, 256 & 257 of 2017 and 43870 & 43871 of 2016
and 14987 of 2017

W.M.P.Nos.271, 272, 273, 274, 275, 276, 277 of 2017 and
37695, 37696, 37697, 37699, 37698 & 37700 of 2016 and 16233 of
2017

M/s.Aditya International Ltd,
Represented by its Director
Mr.Ramsingh Agarwal,
Suite No.226, Bussa Industrial Premises
Co-op, Soc.ltd,
Century Bazar Lane, Prabhadevi,
Mumbai - 400 025.

... Petitioner in W.P.Nos.254 to 257 of 2017

M/s.Goyal Impex & Industries Ltd,
Space E, 3rd Floor, Surya Kiran Building,
No.92, The Mall, Ludhiana - 141 001,
Punjab, Represented by its Authorised
Signatory Shri.Gagan Goyal

... Petitioner in W.P.Nos.43870 & 43871 of 2016

M/s.Aachi Masala Foods Pvt.Ltd,
Plot No.1926, 34th street, Ishwarya Colony I Block,
Anna Nagar West, Chennai - 600 040, Represented by its
Director Shri P.Ashwin Pandian

...Petitioner in W.P.No.14987 of 2017

Vs.

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

2.The Assistant Commissioner of Customs (Refunds-Seaport),
Custom House, No.60, Rajaji Salai, Chennai - 600 001 ...
Respondents in all W.Ps.

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

...Respondent in W.P.No.14987 of 2017

Prayer in W.P.No.254 of 2017: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, to call for the records of the first respondent culminating in the issue of Order in Appeal C.Cus II No.783/2016 dated 17.08.2016 passed from File No.C3-II/386/R/2016-SEA and quash the same.

Prayer in W.P.No.255 of 2017: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, to call for the records of the first respondent culminating in the issue of Order in Appeal C.Cus II No.784/2016 dated 17.08.2016 passed from File No.C3-II/387/R/2016-SEA and quash the same.

Prayer in W.P.No.256 of 2017: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, to call for the records of the first respondent culminating in the issue of Order in Appeal C.Cus II No.785/2016 dated 17.08.2016 passed from File No.C3-II/526/R/2016-SEA and quash the same.

Prayer in W.P.No.257 of 2017: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, to call for the records of the first respondent culminating in the issue of Order in Appeal C.Cus II No.786/2016 dated 17.08.2016 passed from File No.C3-II/527/R/2016-SEA and quash the same.

Prayer in W.P.No.43870 of 2016: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, to call for the records of the first respondent, leading to issuance of Order in Appeal in C.Cus-II No.732/2016 dated 20.07.2016, and also call for the records of the 2nd respondent leading to issuance of Show Cause Cum Demand Notice No.25/2016 dated 20.05.2016 further leading to issuance of confirmed Demand Notice No.14/2016 F.No.S24/SAD/85/2016-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.

Prayer in W.P.No.43871 of 2016: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, to call for the records of the first respondent, leading to issuance of Order in Appeal in C.Cus-II No.733/2016 dated 20.07.2016, and also call for the records of the 2nd respondent leading to issuance of Show Cause Cum Demand Notice No.23/2016 dated 24.05.2016 further leading to issuance of confirmed Demand Notice No.15/2016 F.No.S24/SAD/350/2016-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.

Prayer in W.P.No.14987 of 2017: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorarified Mandamus, calling for the records of the Respondent, leading to issuance of Order in original No.52548/2017 dated 04.01.2017 in S-25/SAD/80/17 and F.N.S24/SAD/2280/2016-Refunds, and quash the same for being contrary to the Statutory provisions more particularly, Section 3(5) of the Customs Tariff Act, 1975 and further direct the Respondent to refund claim afresh in accordance with law.

For Petitioner : Mr.S.Murugappan
in W.P.Nos.254 to 257 of 2017
For Petitioner : Mr.B.Sathish Sundar
in W.P.Nos.43870 & 43871 of 2016 & 14987 of 2017
For Respondents : Mrs.Hema Muralikrishnan
in all W.Ps. Senior Standing Counsel

C O M M O N O R D E R

By this common order, all these Writ Petitions are been disposed.

2.Both the counsels fairly agreed that the issue is no longer as integra and is squarely covered by the decision of this Court in M/s.Goyal Impex and Industries Limited Vs. The Assistant Commissioner of Customs in W.P.Nos.3700, 3431 to 2433 of 2017 and 37790, 43838 & 43848 of 2016. The operative portion of the order reads as under:-

"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."

3. The respondent may therefore pass appropriate orders in
<https://hcservices.ecourts.gov.in/hcservices/>

terms of the above decision.

4.The Writ Petitions are thus closed with the consequential relief to the petitioner. No cost. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Assistant Commissioner of Customs
(Refunds-Seaport),
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

+1cc to M/s.Hema Muralikrishnan , Advocate SR.No. 101683
+1cc to Mr.S.Murugappan , Advocate SR.No. 101589

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and 43870 & 43871 of 2016
and 14987 of 2017 and
W.M.P.Nos.271, 272, 273, 274, 275,
276, 277 of 2017 and 37695,37696,
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A.SK(10/02/2020)

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