

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.11.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 18427 of 2009

M/s. Prabha Industries,
Represented by J.A.Chandaar,
Legal Heir of Late Proprietrix
A.Swayam Prabha,
60, Fort Main Road,
Shevapet,
Salem - 636 002.

... Petitioner

-vs-

The Assistant Commissioner (Refund),
Office of the Commissioner of Customs,
Customs House,
Cochin - 682 009.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the Respondent in Order No. 01/2009, Sl.No. S18/A/123/08 R.Cus dated 01.01.2009 and quash the same and further direct the Respondent to issue the refund voucher with interest as requested by the Petitioners vide their application for refund of duty dated 08.10.2008.

For Petitioner : Mr. R.Senniappan

For Respondent : Mr. T.R. Senthilkumar

O R D E R
(through video conference)

Heard Mr. R.Senniappan, Learned Counsel for the Petitioner and Mr. T.R. Senthilkumar Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. When it is pointed out by Learned Counsel appearing for the Respondent that the Petitioner has got an effective alternative remedy to challenge the impugned order by way of appeal before the Commissioner of Customs (Appeals) under Section 128 of the Customs Act, 1962, Learned Counsel for the

Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure. He has also filed a memo dated 02.11.2020 to that effect through e-mail, which is placed on record.

3. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 08.09.2009, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dm
To

The Assistant Commissioner (Refund),
Office of the Commissioner of Customs,
Customs House,
Cochin - 682 009.

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