



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2020

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 31137 of 2016 to 31140 of 2016 &
20528 to 20530 of 2016
and

W.M.P. Nos. 26974 to 26977 of 2016, 71 & 72 of 2017, 17607
to 17611 of 2016 & 744 to 746 of 2017

M/s. HLG Trading,
Space 'E', Third Floor,
Surya Kiran Building,
92, The Mall,
Ludhiana - 141 001

Represented by its Authorised Signatory
Gagan Goyal

... Petitioner in
W.P. Nos. 31137 & 31138 of 2016 &
W.P. Nos. 20528 to 20530 of 2016

M/s. Goyal Impex & Industries Ltd.,
5/IV, The Mall, Ludhiana - 141 001.
Punjab.

Represented by its Authorised Signatory,
Gagan Goyal

... Petitioner in
W.P. Nos. 31139 & 31140 of 2016

Vs

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

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

... Respondents in all W.Ps

Prayer in W.P. No. 31137 of 2016: Petition filed under
Article 226 of the Constitution of India to issue a Writ of
Mandamus forbearing the First Respondent herein namely the
Commissioner of Customs (Appeals-II), Customs House, Chennai
from proceeding with appeal in F.No. C3-II/587/R/2016-Sea
dated 05.08.2016 pursuant to Order-in-Original No.45655/2016
dated 16.03.2016 passed by the Second Respondent.



Prayer in W.P. No. 31138 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the First Respondent herein namely the Commissioner of Customs (Appeals-II), Customs House, Chennai from proceeding with appeal in F.No. C3-II/695/R/2016-Sea dated 19.08.2016 pursuant to Order-in-Original No.47354/2016 dated 31.05.2016 passed by the Second Respondent.

Prayer in W.P. No. 31139 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the First Respondent herein namely the Commissioner of Customs (Appeals-II), Customs House, Chennai from proceeding with appeal in F.No. C3-II/598/R/2016-Sea dated 21.07.2016 pursuant to Order-in-Original No.46117/2016 dated 06.04.2016 passed by the Second Respondent.

Prayer in W.P. No. 31140 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the First Respondent herein namely the Commissioner of Customs (Appeals-II), Customs House, Chennai from proceeding with appeal in F.No. C3-II/700/R/2016-Sea dated 19.08.2016 pursuant to Order-in-Original No.47424/2016 dated 03.06.2016 passed by the Second Respondent.

Prayer in W.P. Nos. 20528 to 20530 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records of the First Respondent, leading to issuance of Order in Appeal in C.Cus-II No. 575 to 577/2016 dated 13.05.2016, and quash the same, for being contrary to the statutory provisions more particularly, Section 3(5) of the Customs Act, 1975.

For Petitioner : Mr. V. Santharam
(in all W.Ps)

For Respondents : Ms. Hema MuraliKrishnan
(in W.P. Nos. 31137 of 2016) Senior Standing Counsel
For Respondents : Mr. A.P. Srinivas
(in W.P. Nos. 31138 of 2016) CGSC
(in W.P. Nos. 20528 to 20530 of 2016)

For Respondents
(in W.P. Nos. 31139 & : Mr. G. M. Syed Nurullah Sheriff
31140 of 2016) Senior Standing Counsel

COMMON ORDER

In these Writ Petitions both the Counsel fairly submits that the issue is now covered by the decision of this Court in W.P. Nos. 3700, 2431 to 2433 of 2017 and 37790, 43838 & 43848 of 2016 by its Order dated 23.09.2019 in the case of M/s. Goyal Impex and Industries Limited Vs The Assistant Commissioner of Customs, Chennai. The relevant portion of the order reads as under:-



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"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."

2. Accordingly, the present Writ Petitions stands disposed in terms of the above decision of this Court. The Respondents are therefore directed to pass appropriate orders granting refund to the Petitioner in accordance with law after considering the above decision of this Court. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS)

//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 - Sea), Custom House,
No. 60, Rajaji Salai, Chennai - 600 001.

+1cc to Mr.G. M. Syed Nurullah Sheriff, Advocate SR.No.15567

+1cc to Mr.Ms. Hema MuraliKrishnan, Advocate SR.No.15620

+1cc to Mr.A.P. Srinivas, Advocate SR.No.15732

W.P. Nos. 31137 of 2016 to 31140 of 2016 &
20528 to 20530 of 2016

RV (CO)

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GMR (23/03/2020)