

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2020

CORAM

THE HON'BLE MR. JUSTICE C. SARAVANAN

W.P. No. 37472 of 2016

and

W.M.P.Nos.32078 to 32080 of 2016

M/s.HLG Trading, Space 'E', Third
Floor, Surya Kiran Building,
92, The Mall, Ludhiana-141 001
Represented by its Authorised,
Signatory Shri. Gagan Goyal.

... Petitioner

-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

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari, to
call for the records 1st respondent, leading to issuance of order
in Appeal in C.Cus. -II, No.729 to 733 of 2016 dated 20.07.2016,
and also call for the record of the 2nd Respondent leading to
issuance of Show Cause Cum Demand Notice No.28/2016 dated
01.06.2016 and quash the same, for being contrary to the
statutory provisions more particularly, Section 3(5) of the
Customs Traffic Act, 1975.

For Petitioner : Mr.V.Shantharam

For Respondents: Mr. S.Rajasekar
Standing Counsel

O R D E R

The petitioner has challenged the impugned order passed by
the office of The Commissioner of Customs (Appeals-II) vide
order dated 20.07.2016 bearing reference No. Order in Appeal
C.Cus II No.729 to 733/2016 dated 20.07.2016.

2. Heard the arguments of the learned counsel for the
petitioner and the learned counsel appearing for the respondent.

3. By the impugned order, the first respondent-Commissioner of Customs (Appeal) has confirmed the order of the second respondent claiming refund of SAD (Special Additional Duty) in terms of Notification No.102/2007-Cus dated 14.09.2007. Both the counsel fairly submits that the Department has accepted the availability of SAD refund and to that effect, orders have been passed by this Court in W.P. Nos. 3700, 2431 to 2433 of 2017 etc., dated 23.09.2019. The operative portion of the order which reads as follows:

"Common Order"

"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 filled 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."

4. Since the issue is covered by the aforesaid order passed by the learned Single Judge of this Court, dated 23.09.2019 in W.P.Nos. 3700, 2431 to 2433 of 2017 etc., the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssi

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. S.Rajasekar, Advocate sr.5530

W.P. No. 37472 of 2016
and

W.M.P.Nos.32078 to 32080 of 2016

pa(co)
nr 03/03/2020



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