

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.11.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. Nos. 2582 and 2583 of 2017

M/s. Goyal Impex and Industries Ltd.,
5/IV, 92, The Mall,
Ludhiana - 141 001,
Represented by its Authorised Signatory,
Shri. Gagan Goyal ... Petitioner in both W.P.s

-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. ... Respondent in both W.P.s

Prayer in W.P. No. 2582 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent leading to issuance of Order in Original No. 52050/2016 dated 22.12.2016 issued in S-25/SAD/5524/16 and F.N. S24/SAD/2351/2016-Refunds 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. 2583 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent leading to issuance of Order in Original No. 51974/2016 dated 22.12.2016 issued in S-25/SAD/5469/16 and F.N. S24/SAD/5469/2016-Refunds 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. B.Satish Sundar (in both W.P.s)

For Respondent : Mr. Syed Nurullah Sheriff,
Standing Counsel (in both W.P.s)

C O M M O N O R D E R
(through video conference)

Heard Mr. B.Satish Sundar, Learned Counsel for the Petitioner and Mr. Syed Nurullah Sheriff, Learned Standing Counsel appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petitions have been filed challenging the Order in Original No. 52050/2016 and Order in Original No. 51974/2016 dated 22.12.2016 passed by the Respondent as they are contrary to the statutory provisions, in particular, Section 3 (5) of the Customs Tariff Act, 1975.

3. Learned Counsel for both sides submit that in respect of persons similarly placed to the Petitioners, this Court in M/s. Goyal Impex and Industries Limited -vs- Assistant Commissioner of Customs (Order dated 23.09.2019 in W.P. No. 3700 of 2017 etc., batch) and M/s. G.T.Jayanti Agrochem (India) Pvt. Ltd., -vs- Commissioner of Customs (Appeal) (Order dated 13.07.2020 in W.P. No. 20995 of 2016 etc., batch) had set aside the orders assailed therein and had remitted the matter for fresh consideration. In view of the same, Learned Counsel for the Respondent submitted that if appropriate fresh applications are filed by the Petitioner on or before 17.12.2020, enquiry would be conducted on 21.12.2020 affording opportunity of personal hearing to the Petitioner before the Respondent and final orders would be passed by 21.01.2021. He has also filed a memo to that effect, which is placed on record.

4. Having regard to the aforesaid submissions made, the impugned orders shall stand set aside and the Petitioner shall file necessary applications by 17.12.2020 before the Respondent, who shall conduct necessary enquiry on 21.12.2020 affording opportunity of personal hearing to the Petitioner and shall thereafter pass reasoned orders on merits and in accordance with law by 21.01.2021, which shall be communicated to the Petitioner under written acknowledgment. The report of such compliance shall be filed by 31.01.2021 before the Registrar (Judicial) of this Court.

The Writ Petitions are disposed on the aforesaid terms. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

vjt

To

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

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+2 ccs to M/s.Sathish Sundar Advocate sr37855,37808

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