



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.12550 of 2020
(Through Video Conference)

WEB COPY

M/s.Sprixoo Knitwear
Rep. by its Partner, Mr.A.Sivabalan

... Petitioner

Vs.

1.The Assistant Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin - 628 004.

2.The Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin - 628 004.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to refund an amount of Rs.1,11,254/- claimed by the petitioner vide shipping bill No.773482 on 21.09.2019 along with applicable interest within a reasonable time frame.

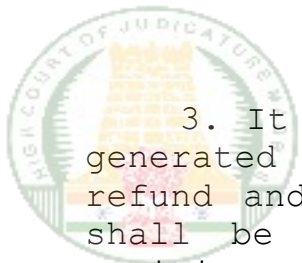
For Petitioner : Mr.Derrick Sam for
Mr.Hari Radhakrishnan

For Respondents : Mr.B.Vijaykarthikeyan

O R D E R

This writ petition has been filed directing the respondents to refund an amount of Rs.1,11,254/- claimed by the petitioner vide shipping bill No.773482 on 21.09.2018 along with applicable interest within a time frame to be fixed by this Court.

2. It is the case of the petitioner that he had filed the above mentioned shipping bill for the export of 740 cartons of garments to West Midlands, United Kingdom. The total value of the consignment is USD 1,61,649.98 as per the commercial invoice dated 21.09.2018. According to the petitioner, in terms of Section 5 of Integrated Goods & Service Tax Act, 2017, they have paid IGS Tax of Rs.5,81,535.30 at the rate of 5% on the value of garments. According to the petitioner, the goods were given let-export order on 22.09.2018 and accordingly, the goods were exported to United Kingdom.



3. It is the further case of the petitioner that the computer generated system of the respondents shall process the claim of refund and an amount equal to the integrated tax paid and this shall be electronically credited to the bank account of the petitioner. According to the petitioner, a sum of Rs.4,70,281/- was credited to their account out of the total IGST refund of Rs.5,81,535/- payable to the petitioner. According to the petitioner, there still remains a balance of Rs.1,11,254/- payable by the respondents towards refund of IGST.

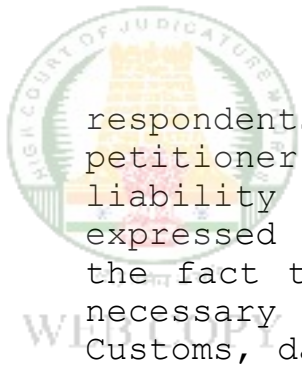
4. It is stated by the petitioner that they have approached the first respondent for refund of the balance IGST paid. The first respondent had directed the petitioner to approach the Icegate Help Desk to resolve the issue of short payment. The petitioner has sent an e-mail dated 23.01.2019 to the Icegate Help Desk, who in turn, informed the petitioner to approach the Customs Department for the refund. According to the petitioner, they have sent a letter dated 02.07.2019 to the Customs Department, followed by the reminder dated 06.08.2019. In such circumstances, this writ petition has been filed.

5. A counter affidavit has been filed by the first respondent wherein it is stated that the procedure involving the disbursement of IGST refund is system based process and is executed through Electronic Data Interface (EDI). According to them, in the instant case, the Officers performed their duty by promptly generating the scroll. It is their case that the non credit of the balance amount of Rs.1,11,254/- happened as a result of technical fault of the computer system. Therefore, according to them, they have rightly directed the petitioner to approach the Icegate Help Desk to find a solution.

6. It is their case that there is a procedure for seeking refund as per Board's Circular No.40/2018-Customs dated 24.10.2018. According to them, there is a specified Form required to be submitted by the petitioner for seeking refund under the aforementioned circular. It is their case that without following the said procedure, the petitioner has sought for refund.

7. Heard Mr.Derrick Sam for Mr.Hari Radhakrishnan, learned counsel for the petitioner and Mr.B.Vijay Karthikeyan, learned standing counsel for the respondents.

8. The learned counsel for the petitioner drew the attention of this Court to Paragraph No.5 of the counter-affidavit filed by the first respondent, wherein they have admitted that the non-credit of the balance amount of Rs.1,11,254/- happened as a result of technical fault in the computer system maintained by the



respondents. Referring to the same, the learned counsel for the petitioner would submit that the respondents have admitted their liability to refund of IGST amount to the petitioner, but have expressed their difficulty in refunding the amount, only due to the fact that the petitioner has not sought for refund by filing necessary Form in accordance with the Board's Circular No.40/2018-Customs, dated 24.10.2018.

9. The learned counsel for the petitioner on instructions would submit that the petitioner is prepared to submit the Form in accordance with the Board's Circular No.40/2018-Customs dated 24.10.2018 to seek refund of a sum of Rs.1,11,254/- payable to the petitioner towards IGST refund under the shipping bill No.773482 on 21.09.2018. For this, the learned standing counsel for the respondents has also not raised any serious objection.

10. For the foregoing reasons, this Court directs the petitioner to submit a Revised Refund Request Form as per the Board's Circular No.40/2018-Customs dated 24.10.2018, within a period of one week from the date of receipt of a copy of this order, seeking for refund of Rs.1,11,254/-, which according to them is refundable under the Shipping Bill No.773482 dated 21.09.2018 and on receipt of the said duly filled-up Form, the first respondent shall pass final orders on the said application within a period of six weeks thereafter.

11. With the aforesaid directions, this writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To:

1.The Assistant Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin - 628 004.

2.The Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin - 628 004.

+1 CC to Mr.B.VIJAY KARTHIKEYAN, Advocate (SR-24169[F] dated
07/12/2020)

Order made in
W.P. (MD)No.12550 of 2020

Dated:
04.12.2020

NA(CO)
KM (17.12.2020) 4P 4C