

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.14681 OF 2012

AND

M.P.NO.1 OF 2012

Kaling Vanidhya (H.U.F),

Rep by its Proprietor/ Kartha L.K.Kohli,

D-10/3, Okhla Industrial Area,

Phase II, New Delhi - 110 020.

... Petitioner

Vs.

1. The Union of India,

Rep by Joint Secretary to Government,

Department of Revenue,

14, HUDCO Visala Building,

D Wing, 6th Floor, Bhikhaji Cama Place,

New Delhi - 110 066.

2. The Commissioner of Customs (Appeals),
Chennai.

3. The Commissioner of Customs (Exports),
Custom House, Chennai.

4. The Deputy Commissioner of Customs (Sea) Draw Back,
Custom House, 33, Rajaji Salai,
Chennai - 600 001.

5. The Assistant Commissioner of Customs (EDI-DPK),
Custom House, 33, Rajaji Salai,
Chennai - 600 001.

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records relating to the impugned order dated 24.01.2012 passed in order No.43/2012-CUS on the file of the 1st Respondent herein, quash the same.

For Petitioner : Mr.A.Jayaraman
for Mr.N.Nithianandam

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

This writ petition has been filed against the order dated 31.01.2012 passed by the first respondent Union of India, represented by Joint Secretary to Government (Department of Revenue) under Section 129 DD of the Customs Act, 1962. By the impugned order, revision application filed by the 3rd Respondent Commissioner of Customs (Exports) before the 1st Respondent has been allowed.

2.The impugned order dated 24.01.2012 has been passed by the first respondent under Section 129 DD of the Customs Act, 1962 in a Revision Application filed by the 3rd Respondent Commissioner of Custom (Exports), Customs House, Chennai, against the Order-in-Appeal No.C.Cus No.115/2010 dated 01.02.2010 of the 2nd Respondent Commissioner of Customs (Appeal), Chennai. Order-in-Appeal No.C.Cus No.115/2010 dated 01.02.2010 of the 2nd Respondent Commissioner of Customs (Appeal), Chennai was passed in an appeal against Order In Original No.7606/2008 dated 15.04.2008 passed by the 4th Respondent Assistant commissioner of Customs (EDI-DBK) Chennai. By Order In Original No.7606/2008 dated 15.04.2008, the 4th Respondent Assistant commissioner of Customs (EDI-DBK) Chennai had ordered recovery of Rs.5,14,694/- for the petitioner.

3.Though elaborate submissions were made by the learned counsel for the petitioner on merits, I am inclined to allow this Writ Petition by setting aside the Impugned Order by remitting the case back to the 1st Respondent to pass a speaking order in the light of the submissions of the learned counsel for the respondent Mr.A.P.Srinivas, who submits that similar order passed by the said Officer and has been set aside in W.P.No.21906 of 2013 vide order dated 09.10.2020 in the case of M/s. Larsen & Toubro Limited Vs.The Revisionary Authority and 3 others.

4.The impugned order is therefore set aside and the case is remitted back to the 1st Respondent to pass a fresh order by an officer having competency to sit as a Revisional Authority. Since the dispute pertains to claim the duty draw back of

exports made by the petitioner during the year 1999, the first Respondent Revisional Authority may pass orders on merits within a period of three months from the date of communication of this order. Needless to state, the said petitioner shall also to be heard in person or through Video Conferencing.

5.The Writ Petition stands allowed by way of remand. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jas

To

1. The Joint Secretary to Government,
Union of India, Department of Revenue,
14, HUDCO Visala Building,
D Wing, 6th Floor, Bhikhaji Cama Place,
New Delhi - 110 066.
2. The Commissioner of Customs (Appeals),
Chennai.
3. The Commissioner of Customs (Exports),
Custom House,
Chennai.
4. The Deputy Commissioner of Customs (Sea) Draw Back,
Custom House, 33, Rajaji Salai,
Chennai - 600 001.
5. The Assistant Commissioner of Customs (EDI-DPK),
Custom House, 33, Rajaji Salai, Chennai - 600 001.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.5055
+1cc to Mr.N.Nithianandam, Advocate, S.R.No.5247

W.P.No.14681 of 2012
and
M.P.No.1 of 2012

SKY(CO)
CS/26/03/2021