



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 04.08.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.6950 of 2013

M/s.Hyundi Motor India Ltd.,
Plot No.H-1, SIPCOT Industrial Park,
Irrungattukottai, Sriperumbudur,
Kancheepuram - 602 117.
Tami nadu

... Petitioner

Vs.

- 1.The Joint Secretary (Revision Application)
Government of India, Ministry of Finance,
Department of Revenue
Revision Application Unit
14, HUDCO Vishala Building, B Wing,
6th Floor, Bhikaji Cama Place,
New Delhi 110 066.
- 2.The Commissioner (Appeals) of Central Excise &
Customs, Large Taxpayer Unit
1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar (West), Chennai - 600 101
- 3.The Additional Commissioner of Central Excise,
Large Taxpayer Unit,
1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar (West), Chennai - 600 101.
- 4.The Deputy Commissioner of Customs (Drawback),
Customs House, 19, Rajaji Salai,
Chennai - 600 001.

... Respondents

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in F.No.373/107/DBK/11-RA in Order No.313/12-Cus dated 01.08.2012 in rejecting the amended claim submitted by the petitioner by disallowing the petitioner to add new unused Bills of Entry which were not mentioned in original Drawback Applications and quash the same by extending the benefit of telex communication in F.No.603/32/2003-DBK dated 26.02.2004 and consequently direct the third respondent to issue the amendment order to the fourth



respondent for refund of Rs.33,27,39,476/- (Rupees Thirty Three Crores Twenty Seven Lakhs Thirty Nine Thousand Four Hundred Seventy Six Only) along with interest in favour of the petitioner.

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For Petitioner	: Mr. Joseph Prabakar For M/s. Pin Associates
For 1st Respondent	: No appearance
For Respondents 2 to 4	: Mr. A. P. Srinivas Senior Panel Counsel

ORDER

Heard Mr. Joseph Prabakar, learned counsel for the petitioner and Mr. A. P. Srinivas, learned Senior Panel Counsel for the respondents 2 to 4 and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order in Order No.313/12-Cus dated 01.08.2012 passed by the first respondent rejecting the revision application filed by the petitioner under Section 129 DD of the Customs Act, 1962 (hereinafter referred to as the 'Act' for short) preferred against the Order-In-Appeal No.22/2011 dated 20.04.2011 passed by the Commissioner of Customs (Appeals), Chennai.

3. The learned counsel for the petitioner has brought to notice of this Court that the impugned order has been passed by the Joint Secretary (Revision Application), Government of India, who was also in the same rank of Commissioner of Central Excise and Customs, who had passed the Order-In-Appeal which had been challenged before him in that revision application, which is impermissible in law. He has also placed reliance on the decision of this Court in S. Moinuddin -vs- Joint Secretary, Government of India, Ministry of Finance, New Delhi (dated 24.01.2017 in W.P. No. 16682 of 2016), where this Court has interfered with the order that had been impugned therein in respect of similarly placed persons on that sole ground and had directed the matter to be heard by an authority after taking corrective measures in that regard. The learned Senior Panel Counsel appearing for respondents 2 to 4, on instructions, states that subsequently, the Revisional Authority has been re-constituted, taking note of the anomaly pointed out by this Court.

4. Having regard to the aforesaid submissions made, the impugned order is quashed and the matter is remitted to the



present Revisional Authority under Section 129 DD of the Act for fresh consideration of the matter. It shall be incumbent upon the Revisional Authority, after affording full opportunity of hearing to the petitioner, deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law, inhibited and uninfluenced by the impugned order which has been set aside and communicate the decision taken to the petitioner.

5. In fine, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Joint Secretary (Revision Application)

Government of India,
Ministry of Finance,
Department of Revenue
Revision Application Unit
14, HUDCO Vishala Building, B Wing,
6th Floor, Bhikaji Cama Place,
New Delhi 110 066.

2.The Commissioner (Appeals) of Central Excise &

Customs, Large Taxpayer Unit
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3.The Additional Commissioner of Central Excise,

Large Taxpayer Unit,
1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar (West), Chennai - 600 101.

4.The Deputy Commissioner of Customs (Drawback),

Customs House, 19, Rajaji Salai,
Chennai - 600 001.

+1cc to Mr.A.P.Srinivas, Advocate SR.No. 38117

W.P.No.6950 of 2013

NMI (CO)

A.SK(19.08.2021)