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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07.06.2021

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

WRIT PETITION NO.12438 OF 2021

&

W.M.P.NO.13228 OF 2021

Monesh B.Hinduja

...Petitioner

Vs.

The Deputy Commissioner of Customs (BRC-DBK),
Ministry of Finance,
Department of Revenue,
Seema Shukla Bhavan,
No.60, Rajaji Salai,
Chennai - 600 001.

...Respondent

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of Certiorari quashing the order passed by the respondent dated 26.03.2021 numbered as F.No.S.Misc.2/233/2016-DBK.

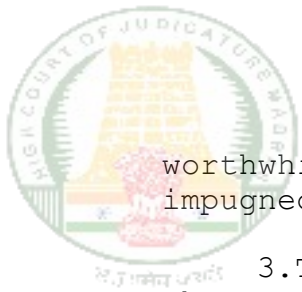
For Petitioner : Mr.S.R.Raghunathan

For R1 : Mr.K.Mohana Murali Krishnan
Standing Counsel

ORDER

This Writ Petition is filed against the proceedings of the respondent demanding recovery of draw back amount of Rs.62,44,846/- against shipping bills mentioned in Table-1 as detailed under Rule 16 of the Customs and Central Excise Duties Drawback Rules, 1995 along with applicable interest under the provisions of Customs Act, 1962.

2. The challenge has been made by the petitioner principally on the ground that there was no proper application of mind and also the proceedings is vitiated by delay and latches. This Court is unable to appreciate the challenge for more than one reason. Firstly, the grounds raised in the writ petition do not merit any serious consideration and also the grounds are not



worthwhile enough for this Court to intervene in the matter of impugned proceedings, for the present.

3. The above conclusion is on the basis of the reason that the appellate remedy is available under the provisions of the Customs Act and in matters like this, it is always better for the petitioner to approach the Appellate Authority and convince the Authority on the basis of the grounds raised in the present writ petition. However, it is certainly, not open to the petitioner to bypass the effective appellate remedy made available under the statute and rush to this Court by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. It is needless to mention that the appellate remedy that has been made available under the statute is effective and proper and such remedy/remedies must be exhausted before the petitioner chooses to approach this Court. The appellate or revisional authority alone is competent to appreciate the factual explanation or challenge to the original order and this Court, in exercise of its writ jurisdiction, cannot undertake the adjudication by investigating into the factual aspects of the challenge.

5. For the above reasons, this Court finds that the writ petition is not maintainable. Therefore, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrm

To

The Deputy Commissioner of Customs (BRC-DBK),
Ministry of Finance,
Department of Revenue,
Seema Shukla Bhavan,
No.60, Rajaji Salai,
Chennai - 600 001.



Copy To

The Section Officer,
ER Section,
High Court, Madras.

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+1cc to Mr.S.R.Raghunathan, Advocate, S.R.No.27496

W.P.No.12438 of 2021

VG-II (CO)
RLP (23/07/2021)