IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.13376 OF 2019

(THROUGH VIDEO CONFERENCING)

Kayem Exports
No.114 & 115 Trade Centre,
Wallajh Road, Chennai 600 002,
Rep.by its Proprietor Mr.Shashikumar Nair.
... Petitioner

.vs.

Assistant Commissioner of Customs(Refunds)
Office of Commissioner of Customs,
Customs House, 60 Rajaji Salai,
Chennai 600 001.
... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the order passed by the respondent in file F.No.SR.1108/2018-REFUNDS dated 26.11.2018 and to quash the same for having been passed without the authority of law and in gross violations to the principles of natural justice and contrary to judicial pronouncements and to direct the respondent to approach the matter in accordance with law by strictly following the principles of law namely, by issue of a show cause notice to the petition and to hear the petitioner and to pass a speaking and appealable order in the matter in accordance with law.

For Petitioner : M/s.N.Viswanathan

For Respondent : Mr.T.Pramod Kumar Chopda
Senior Standing Counsel.

ORDER

After hearing elaborate arguments of the learned counsel for the petitioner and the learned Senior Standing counsel for the respondent, this Court is of the view that the impugned communication has to go as it seeks to deny the refund claim filed by the petitioner on 24.07.2018 in respect of four Bills of Entries of the petitioner without issuing a proper show cause notice.

2. Since the issue also involves disputed question of facts, it could be appropriate for the respondent to issue a proper show cause notice to the petitioner and call upon the petitioner to show cause notice as to why the refund claim filed by the petitioner should not be rejected.

3. Considering the same, the impugned communication seeking to reject the refund claim of the petitioner without issuing show cause notice stands quashed and the respondent is directed to issue a proper show cause notice to the petitioner, preferably, within a period of thirty days (30) from the date of receipt of a copy of this order.

4. The petitioner shall thereafter file an appropriate reply to the show cause notice within a period of 30 days. On such receipt of such reply, the respondent shall pass appropriate orders on merits and in accordance with law and decide the fate of the refund claim of the petitioner, within a period of 30 days thereafter. In all entire proceedings may be completed within a period of three months from the date of receipt of a copy of this order.

5. Needless to state, before passing such order, the petitioner shall be heard in person and/or through an authorised representative physically or through Video Conference, in case the petitioner desires for a personal hearing.

6. This writ petition is disposed with the above observation. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kkd

To

The Assistant Commissioner of Customs (Refunds)
Office of Commissioner of Customs,
Customs House, 60 Rajaji Salai,
Chennai 600 001.

+1cc to M/s.N.Viswanathan, Advocate, S.R.No.67715

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SSI(CO)
PM/19/01/2022