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W.P.No.1429 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.1429 of 2023

M/s.Sree Krishna Enterprises,
Plot No.96, Seshachala Co-operative
Housing Society, 1st Floor,
East Maredipally, Secundrabad,
Telangana 500 026.
Shri S.Raghavendra
Proprietor

.. Petitioner

VS

- 1.Commissioner of Customs – II,
Chennai – II Commissionerate,
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.
- 2.Deputy / Assistant Commissioner of
Customs, Group – 3 & 4,
O/o. Commissioner of Customs – II,
Chennai – II Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai – 600 001.
- 3.Deputy / Assistant Commissioner of
Customs, (Refunds),
O/o. Commissioner of Customs – II,
Chennai – II Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai – 600 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of mandamus directing the respondents,
more particularly the third respondent to act on my refund claim /
application dated 15.02.2022 and cause refund / return of an



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amount of Rs.55,00,000/- pre-deposit made during the course of investigating with interest thereto as also two bank guarantees of Rs.8,25,000/- dated 30.07.2013 and Rs.13,50,000/- dated 20.11.2013 and bonds thereto pursuant to Final Order No.40002 – 40004/2022 dated 27.01.2022 passed by the CESTAT, South Zonal Bench, Chennai.

For Petitioner : Mr.B.Sathish Sundar
For Respondents : Mr.R.Gunaalan
Junior Standing Counsel

ORDER

1. The petitioner claims that he has succeeded in the statutory appeal filed under Section 129A of the Customs Act, 1962 before the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai in Final Order No.40002-40004 of 2022 dated 27.01.2022.

2. According to the petitioner, since he has succeeded in the aforementioned appeal, he is entitled for refund of the customs duty. The petitioner has given his representation on 15.02.2022 through his counsel to the respondents seeking for refund. One more representation was also given by him through his counsel on 07.06.2022 and a reminder was given on 29.08.2022. According to him, despite these representations, till date, the respondents have not refunded the customs duty. In such circumstances, he has filed this writ petition.



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3. Heard Mr.B.Satish Sundar, learned counsel appearing for the petitioner and Mr.R.Gunaalan, learned Junior Standing Counsel, who accepts notice on behalf of the respondents.

4. Learned counsel for the petitioner, on instructions, would submit that the petitioner will be satisfied if the representations, referred to supra, are considered on merits and in accordance with law within a time frame to be fixed by this Court. The positive direction sought for by the petitioner, in this writ petition, cannot be granted by this Court at this stage. It is for the respondents to consider the petitioner's representation on merits and in accordance with law within a time frame to be fixed by this Court.

5. No prejudice would be caused to the third respondent if the petitioner's representation as stated supra is considered on merits and in accordance with law within a time frame to be fixed by this Court.

6. For the foregoing reasons, this Court directs the third respondent to pass final orders on merits and in accordance with



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law on the refund application dated 15.02.2022 submitted by the petitioner seeking re-fund / return of an amount of Rs.55,00,000/- deposited by him during the course of investigation with interest thereon pursuant to the Final Order No.40002-40004 of 2022 dated 27.01.2022 passed by Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the aforesaid direction, this writ petition is disposed of. No costs.

23.01.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

- 1.The Commissioner of Customs – II,
Chennai – II Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai – 600 001.
- 2.The Deputy / Assistant Commissioner of
Customs, Group – 3 & 4,
O/o. Commissioner of Customs – II,
Chennai – II Commissionerate,
Custom House, No.60, Rajaji Salai,
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- 3.The Deputy / Assistant Commissioner of
Customs, (Refunds),
O/o. Commissioner of Customs – II,
Chennai – II Commissionerate,
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ABDUL QUDDHOSE,J.

ssm

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