



WEB COPY



W.P.No.2897 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.2897 of 2020

Shaik Shamim Banu

... Petitioner

Vs.

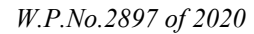
The Commissioner of Customs,
(Formerly the Principal Commissioner of Customs),
O/o.The Principal Commissioner of Customs,
New Customs House,
Meenambakkam,
Chennai - 600 027.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, to direct the respondents to release/return the Bank Guarantee No.11130100000009 dated 24.04.2017, furnished by the petitioner in pursuant to the order of this Court in W.P.No.16681 of 2015 dated 24.01.2015.

For Petitioner : Mr.T.Chezhiyan

For Respondent : Mr.Rajnish Pathiyil
Senior Standing Counsel



This is the second round of litigation before this Court,

"9. Having regard to the observations made in NVR Forging's case, the contention of the petitioner will have to be sustained.

10.1. In case, the requisite corrective steps are not taken, respondents No.4 will ensure compliance of the order dated 24.06.2015, passed by the Commissioner of Appeals.

3.The Revisional Authority by the aforesaid Revision Order dated 2016 had reversed the favour decision passed by the Appellate Commissioner vide order dated 24.06.2015 in Order-in-Appeal C.Cus.I 31/2015 and Order-in-Appeal No.C.Cus.I No.400/2015 dated 2015.



W.P.No.2897 of 2020

4.The Appellate Commissioner vide order dated 24.06.2015 in Order-in-Appeal No.C.Cus.I No:331/2015 had partly modified the decision of the Joint Commissioner in Order-in-Original No.17/20/04/2015 dated 20.04.2015. The Joint Commissioner had imposed a redemption fine of Rs.17,50,000/- and penalty of Rs.2,50,000/- on the petitioner.

5.The Appellate Commissioner vide Order-in-Appeal C.Cus-I.331/2015 dated 24.06.2015 and reduced redemption fine to Rs.7,00,000/- and penalty to Rs.1,00,000/-.

6.Thus, the department's appeal against the order of the Joint Commissioner vide Order-in-Original No.17/20/04/2015 dated 20.04.2015 was dismissed by the Appellate Commissioner by a separate order in Appeal No.C.Cus-I No.400/2015 dated 06.08.2015 in view of Order-in-Appeal No.C.Cus-I No.331/2015 dated 24.06.2015 of the Appellate Commissioner in the petitioner's Appeal.

7.Aggrieved by the respective Order-in-Appeal No.C.Cus-I



W.P.No.2897 of 2020

No.331/2015 dated 24.06.2015 and Order-in-Appeal No.C.Cus-I No.40/2015

dated 06.08.2015 of the Appellate Commissioner, the Customs Department had thus preferred revisions application under Section 129DD of the Customs Act, 1962 before the Revisional Authority.

8.These Revisions were allowed by the Revisional Authority vide Order No.2-3/2016-Cus dated 22.01.2016 which were the subject matter of W.P.No.16681 of 2016 at the behest of the petitioner. As mentioned above, this Court had set aside Order No.2-3/2016-Cus dated 22.01.2016 of the Revisional Authority and remanded the case back for passing fresh orders.

9.Meanwhile, the petitioner was asked to furnish Bank Guarantee for a sum of Rs.1,00,000/- pending disposal of the writ petition. The specific case of the petitioner is that the respondent has not complied with the order dated 24.01.2017 in W.P.No.16681 of 2016 and therefore the Bank Guarantee furnished by the petitioner should be returned.

10.When the case was taken up for hearing, the learned counsel for the



W.P.No.2897 of 2020

respondent, has produced a copy of the order No.149/2021 CUS (SZ)/ASRA/Mumbai dated 17.06.2021 of Revisional Authority issued on 22.06.2021.

11.Although, the said order has been passed belatedly beyond the period specified by this Court while passing its order dated 24.01.2017 in W.P.No.16681 of 2016, the fact remains that orders have been passed by the Revisional Authority. Several factors have contributed to the same during the interregnum. The delay in passing the order deserved to be condoned.

12.Therefore, the question of returning of Bank Guarantee furnished by the petitioner at this stage as prayed for by the petitioner cannot be countenanced.

13.Therefore, liberty is given to the petitioner to challenge Order No.149/2021 Cus(SZ)/8/ASRA/Mumbai of the Revisional Authority dated 17.06.2021 issued on 22.06.2021 in the manner known to law within a period of 30 days from the date of receipt of a copy of this order,



W.P.No.2897 of 2020

14.This writ petition is dismissed with the liberty. No costs.

WEB COPY

17.07.2023
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation: Yes/No
jas

To

The Commissioner of Customs,
(Formerly the Principal Commissioner of Customs),
O/o.The Principal Commissioner of Customs,
New Customs House,
Meenambakkam,
Chennai - 600 027.

C.SARAVANAN, J.



WEB COPY



W.P.No.2897 of 2020

jas

W.P.No.2897 of 2020

17.07.2023