



WEB COPY



W.P.No.10606 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.10606 of 2020

M/s SIBCO Overseas Pvt Ltd
Represented by its Authorised Officer,
Sunil Kumar Agarwal, M/54,
Son of Govind Ram Agarwal,
P-3, New CIT Road 4th Floor,
Kolkatta – 700 073.

.. Petitioner

VS

The Commissioner of Customs (Seaports Exports),
Custom House, No.60 Rajaji Salai,
Chennai 600 001.

.. Respondent

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of mandamus directing the respondent to
properly implement the Final Order No.40025/2019/2016 dated
07.01.2019 of the Hon'ble Customs, Excise and Service Tax
Appellate Tribunal by sanctioning applicable interest for the principal
amount of Rs.9,11,690/-.

For Petitioner : Ms.M.Rakhi

For Respondent : Mr.K.S.Ramasamy, JPC



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ORDER

A copy of the order of Division Bench in W.A.No.927 of 2013 and batch along with C.M.A.No.1342 of 2017 and other C.M.A's dated 25.04.2022 is produced.

2. That order disposes appeals filed as against orders of learned Single Judge quashing paragraph 4.3 of Circular No. 6/2008-Customs dated 28.04.2008 and a consequential direction to the authority to consider refund applications in light of Section 27 and 27A of the Customs Act, 1962.

3. Both learned counsel concur with the position that the identical issue as above arises in this matter as well. Hence the directions of Division Bench in that case will apply on all fours to the present matter.

4. Paragraph 7 being operative portion is extracted:-

"Such being the present position of law, this Court, in the given facts and circumstances of the case, set aside the orders impugned herein and remands the matter to the original authority for fresh consideration of the applications for refund after providing opportunity of hearing to the parties, based on



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the outcome of the SLP filed against the order passed by the Bombay High Court in CMS Info System Limited (supra), to be rendered by the Hon'ble Supreme Court."

5. The same direction as above is taken to be passed in the present case as well. Thus, the impugned order is set aside and the matter remanded to the original authority for fresh consideration after hearing the parties based on the outcome of Special Leave Petition filed against the order of the Bombay High Court in the case of *CMS Info Systems Limited v Union of India* [2017 (349) ELT 236 (Bom)].

6. Writ petition stands disposed. No costs.

26.06.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To:

The Commissioner of Customs (Seaports Exports),
Custom House, No.60 Rajaji Salai,
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DR. ANITA SUMANTH,J.

ssm

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