



W.P.No.16800 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.06.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.16800 of 2023

M/s.Shimla Fruit Agency
Old No.51, New No.67,
Rajaji Road, Ram Nagar,
Coimbatore - 641009.
Rep. by its Managing Partner and
authorised Signatory
Shri S.K.Mohammed Saffiullah

... Petitioner

Vs

1.The Commissioner of Customs (Imports)
Custom House,
60, Rajaji Salai,
Chennai - 600 001.

2.The Addl. Commissioner of Customs (Gr.1)
O/o. The Commissioner of Customs
(Imports), Customs House,
60, Rajaji Salai, Chennai - 600 001.

3.The Deputy/Assistant Commissioner of
Customs (Refunds)
O/o The Commissioner of Customs
(Imports), Custom House,
60, Rajaji Salai, Chennai - 600 001.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India

praying to issue a Writ of Mandamus, directing the office of the respondent, more particularly the 3rd respondent, to act on the petitioner's representations dated 10.04.2023 and 22.04.2023 and cause refund of Rs.26 Lakhs in light of the Final Order No.40292 of 2022 dated 12.08.2022 passed by CESTAT, South Zonal Bench, Chennai.

For Petitioner	: Mr.B.Satish Sundar
For Respondents	: Mr. Rajnish Pathiyil Senior Panel Counsel

ORDER

Mr.Rajnish Pathiyil, learned Senior Panel Counsel accepts notice for the respondent. In view of the consent expressed by the learned counsel appearing on either side, this Writ petition is taken up for disposal, even at the stage of admission.

2. This writ petition has been filed to direct the 3rd respondent to consider the representations of the petitioner dated 10.04.2023 and 22.04.2023 and to cause refund of Rs.26 Lakhs in light of the final order No.40292 of 2022 dated 12.08.2022 passed by Customs Excise & Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Chennai.



3. The case of the petitioner is that petitioner is involved in a business of importing and selling food products. The petitioner is in possession of Import Export Code registered with Goods and Services Tax (GST) authorities. The petitioner had imported three consignments of betel nut products (unflavoured) from Myanmar and Indonesia. However, the said goods were detained due to a dispute over classification of the Customs Tariff Heading (CTH). The samples were taken to Central Revenue Control Laboratory (CRCL), Chennai and they determined that the goods were cut pieces of betel nuts, leading the department to classify them under the different tariff heading. As a result, goods were detained and the petitioner was waived show cause notice and conducted the adjudication proceedings.

4. An order was passed allowing him to re-export the goods on payment of fine and penalty. However, the petitioner requested for detention cum demurrage waiver certificate and the same was not issued. As against which, the petitioner preferred an appeal before Commissioner of Customs (Appeals-II), Chennai and the same was dismissed.

5. Subsequently, a further appeal was filed before the CESTAT and the CESTAT modified the order reducing the fine and penalty. In view of the CESTAT order, the amount was not refunded, thereby the petitioner made



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representations on 10.04.2023 and 22.04.2023 and the same were not considered. Hence, the present Writ petition.

6. Learned counsel for the petitioner would submit that this court may issue a direction to the 3rd respondent to consider the representations of the petitioner in light of the order passed by the CESTAT vide order No.40292 of 2022 dated 12.08.2022 with a reasonable time frame fixed by this Court.

7. Heard both sides and perused the material available on record.

8. Considering the aforesaid facts and circumstances of the case and there being no objection expressed by the learned Senior Panel Counsel to the suggestion of this Court, this Court directs the 3rd respondent, being the Deputy/Assistant Commissioner of Customs (Refunds), Chennai to consider the representations of the petitioner and dispose the same, after hearing the petitioner, within a period of six (6) weeks from date of receipt of a copy of this order.

9. This writ petition is disposed of in the aforesaid terms. No costs.

mpl

07.06.2023

Index : Yes / No

Speaking Order / Non Speaking Order

Neutral Citation: Yes/No



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M.DHANDAPANI, J.

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