IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.2937 of 2020
and
W.M.P.No.3404 of 2020

M/s.T.T.Ltd.,
Rep. By its Authorised Signatory,
Mahendra Kumar Nahata
S/o. Sri Rawat Mal Nahata
Having its office at
879, Master PrithviNath Marg,
Karol Bagh, New Delhi – 110 005. .. Petitioner

vs

1.Union of India
Rep. By its Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.

2.The Deputy Commissioner
Office of Deputy Commissioner of Customs,
Krishna Block, Rajaji Salai,
Seethakadai Nagar,
George Town,
Chennai – 600 001. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents by themselves, their subordinate servants and agents to forthwith pay to the petitioner the compounded interest amount to Rs.2110517.43 (Rs.Twenty One Lacs Ten Thousands Five Hundred

Seventeen & Forth Three Paise Only) at the rate of 18% for the period of Financial Year 2004 – 2019 as provided under Section 75A of the Customs Act, 1962, along with further interest at 18% from 01.04.2017 till its actual realization.

For Petitioner	:	Mr.Mukul Raao for Mr.R.Sathish Kumar
For Respondents	:	Mr.V.Sundareswaran Senior Panel Counsel

ORDER

Heard Mr.Mukul Raao, learned counsel for petitioner and Mr.V.Sundareswaran, learned Senior Panel Counsel for respondents.

2. The petitioner claims to be an exporter and seeks a mandamus directing the respondents to pay compounded interest amounting to a sum of Rs.21.10 lakh (approx) at the rate of 18% for the period 2004 – 2019 in terms of Section 75A of the Customs Act, 1962 with further interest at 18% from 01.04.2017, till actual realization. According to petitioner, the interest is attributable to delayed payment of duty drawback.

3. The respondents in their counter have denied responsibility in full. According to respondents, even the period as

set out in the prayer does not contain any basis when reconciled with the dates of shipping bills. That apart, it is the respondent's case that there was delay in filing of Export General Manifest (EGM) by the shipping liner authorised by the exporter. The delay, if any, is thus attributable only to the private parties engaged by the petitioner and not to the Customs Department. This would thus disavow in entirety, the claim for interest.

4. Mr.Mukul Raao, who appears for the petitioner relies upon a decision of the Gujarat High Court in the case of *T.T.Ltd Through its Authorized Representative Shri.Sunil Mahnot v Union of India* in R/Special Civil Application No.8171 of 2019 where a similar prayer had been put forth by the petitioner in respect of exports made through Mundra Port. In that case, the Division Bench has directed the petitioner to make a representation before the authorities, further directing the authorities to consider the same, preferably within three months from date of receipt of the representation.

5. The petitioner prays for a similar order being passed in this case as well. Hence, and acceding to the request, liberty is granted to the petitioner to make a representation seeking interest

before the appropriate respondent and such representation, once filed, shall be disposed after hearing the petitioner, as expeditiously as possible and in any event within sixteen weeks from the date of institution thereto, in accordance with law.

6. Writ petition is disposed in the above terms. No costs. Connected miscellaneous petition is closed.

23.03.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To
1.The Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.

2.The Deputy Commissioner
Office of Deputy Commissioner of Customs,
Krishna Block, Rajaji Salai,
Seethakadai Nagar,
George Town,
Chennai – 600 001.

DR. ANITA SUMANTH,J.

ssm

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