



W.P.No.14843 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14843 of 2022

and

W.M.P.No.14053 of 2022

M/s B.P.Overseas,
Represented by its Partner : Ashok Kumar
1st Floor,2-D Vidyalaya Road,
Salem,
Tamil Nadu- 636 007.

... Petitioner

Vs.

The Deputy Commissioner of Customs (BRC-DBK),
Ministry of Finance, Department of Revenue,
Office of Commissioner of Customs
Chennai IV,
60,Chennai 01.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for records of the respondent herein bearing the impugned Order-in-Original No. 89576/2022 dated 12.04.2022 passed by respondent to recover the drawback amount of Rs 4,14,765/- against the shipping under Rule 16 of Customs and Central Exercise Drawback Rules 1995 along with interest under Section 75A(2) of Customs Act along with the penalty of



W.P.No.14843 of 2022

Rs.21,000/- to quash the same and direct the respondent not to enforce the impugned order issued by respondent.

For Petitioner : S.Gayathri

For Respondent : Mr.G.Meganathan

ORDER

This Writ Petition is directed against the impugned Order-in-Original No.89576/2022 dated 12.04.2022. By the impugned order, the respondent has confirmed the demand proposed in Show Cause Notice dated 04.08.2017 vide F.No.S.Misc.2/2203/2016-BRC (DBK) which was issued to the petitioner to show cause as to why the amount paid as Drawback for the exported good along with the applicable interest shall not be recovered in terms of Rule 16A(2) and (3) read with Customs, Central Excise Duties and Services Tax Drawback Rules, 1995 and why penalty should not be imposed under Section 117 of the Customs Act, 1962.

2. The impugned order is placing reliance on Commissioner of



W.P.No.14843 of 2022

Customs, Chennai – IV issued Public Notice No.02/18 dated 08.01.2018, wherein, the common Personal Hearing was notified to all the exporters whose BRC was not realized for the period 2004.2014.

3. It appears that the petitioner has also not responded to the same, despite the opportunity being given to the petitioner. It is noticed that the petitioner has exported consignment of goods under 16 shipping bills starting from 30.04.2004 to 02.09.2010. The order has been passed without any reply from the petitioner. The petitioner claims that he has the documents to substantiate that the petitioner had indeed received remittance of export consideration and therefore duty draw back sanctioned to the petitioner cannot be recovered. Since the petitioner has not replied to the same, the impugned order has been passed.

4. I am of the view, this case can be remitted back to the respondent to pass a fresh order within a period of 3 months from the date of receipt of a copy of this order. The petitioner is directed to file a consolidated reply to the above mentioned Show Cause Notice by treating the impugned order as corrigendum to the same. The respondent



W.P.No.14843 of 2022

shall thereafter pass a fresh orders on merits and in accordance with law.

The petitioner is directed to co-operate with the respondent.

5. This Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

20.12.2024

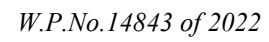
Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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The Deputy Commissioner of Customs (BRC-DBK),
Ministry of Finance, Department of Revenue,
Office of Commissioner of Customs
Chennai IV, 60, Chennai 01.



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W.P.No.14843 of 2022

C.SARAVANAN, J.

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W.P.No.14843 of 2022

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