IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM

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

W.P.No.20133 of 2021
and
W.M.P.No.21408 of 2021

M/s Piolax India Private Limited.,
Represented by its Managing Director,
Tetsuji Hirano,
No.200, North Belerica Road, Post Box No.1,
Sri City DTZ Chitoor,
Cuddapah, Andhra Pradesh – 517 588. ...Petitioner

Vs.

The Deputy Commissioner,
Refund (Sea),
Customs House, Rajaji Salai,
Chennai – 600 001. ...Respondent

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certioraified Mandamus, calling for the records comprised in Order-in-Original No.85559/2021 dated 02.08.2021 in the file of the Respondent and qush the same and direct the Respondent to refund of Extra Duty Deposit.

For Petitioner : M/s. Sai Srujan Tayi,
Sr. Standing Counsel

For Respondent : Mr.Pramod Kumar Chopda
Sr. Standing Counsel

ORDER

The learned counsel for the petitioner is before this Court and is challenging the impugned Order-in-Original No.85559/2021 dated 02.08.2021 passed by the sole respondent. By the impugned order, the refund claim of the petitioner has been rejected with the following observations:-

> *"I order for rejection of extra duty deposit of Rs.1,38,75,429/- (Rupees One Crore Thirty Eight Lakhs Seventy Five Thousand Four Hundred Twenty Nine Only) paid by M/s Piolax India Pvt. Ltd., for the reasons stated above."*

2. The petitioner is an importer was importing goods from its related companies/suppliers and therefore, was subjected to payment of extra deposit of duty in terms of circular No.1/1998 dated 01.01.1998 issued by the CBDT (Central Board of Indirect Taxes) New Delhi, as amended from time to time.

3. Thereafter, the Deputy Commissioner of Special Valuation Branch, passed internal Notification No.28982 of 2014 dated 26.08.2014, whereby the

petitioner was asked to add amounts towards the Bill of Entry that were provisionally assessed in terms of Rule 10 (1) (a) (b) of the Custom Valuation Rules, 2007. This was agitated and taken on appeal before the Appellate Commissioner.

4. The Appellate Commissioner vide order dated C.Cus.II.No.284/2015 dated 30.03.2015, ultimately allowed the appeal. This order of the Appellate Court has also been accepted by the Committee of Commissioner vide review order dated 01.08.2016, whereby it was informed that the order was also being accepted by the Committee of Commissioner dated 13.07.2015.

5. Thus, in the light of the same, the petitioner sent repeated requests for finalization of the Bills of Entry filed by the petitioner from 2014 to 2017 and for refund of the extra deposit of duty paid by the petitioner in accordance with Notification No.1/1998 dated 01.01.1998, as amended by circular No.11/2001-Cus., dated 23.02.2001.

6. The correct method for considering refund claim would be finalization of the Bills of Entry that were filed provisionally and thereafter refund of the amounts paid towards extra deposit of duty in terms of the above mentioned circular, this has not been carried out by the respondent.

7. In the instant case, the respondent found fault with the petitioner not giving TR valuation, which is extra deposit of duty that was paid at the time of import covered by the respective Bills of Entry filed from 2014 to 2017.

8.Onus is on both, the petitioner as well as the respondent, to have the amount arrived at for being refunded back to the petitioner. Under these circumstances, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of copy of this order. The petitioner is directed to co-operate with the respondent in the aforesaid endeavour. Connected Miscellaneous Petition is closed.

23.09.2024

Index: Yes/No
Speaking Order: Yes/No
Neutral Citation Case: Yes/No
NST
To
The Deputy Commissioner,
Refund (Sea),
Customs House, Rajaji Salai,

Chennai – 600 001.

C.SARAVANAN, J.

NST

W.P.No.20133 of 2021
and
W.M.P.No.21408 of 2021

23.09.2024