06 **27.11.2025**

Ct. No. 551

Ab

WPA 19837 of 2025

M/s. Shree Durga Trading Company
Vs.
Deputy Commissioner of Customs and others.

Mr. Pratik Samajpati.
... for the petitioner.

Mr. Vipul Kundalia,
Mr. Anurag Roy,
Mr. Dhirodatto Chaudhuri.
... for the Customs Authority.

1. Affidavit of service filed in Court today is taken on record.
2. The petitioner is aggrieved by the inaction of the respondents-Customs Authorities in considering the petitioner's representations seeking refund of excess countervailing duty paid by the petitioner. The petitioner seeks issuance of a writ of mandamus commanding the respondents to *"allow the representations made by your Petitioner for refund of excess Countervailing Duty (CVD) paid by your Petitioner after issuance of the exemption Notification No. 1/2011- Central Tax dated 01.03.2011 by the Central Government"*.
3. It is submitted by the learned Advocate appearing on behalf of the petitioner that the petitioner is entitled to refund of countervailing duty in terms of the notification issued by the Central Government on March 3, 2011 and that the petitioner has made several representations before the respondents-

Customs Authorities in such regard, but none of them has been considered by the respondents-Customs Authorities.

4. Having heard the learned Advocates appearing on behalf of the respective parties and having considered the material on record, this Court is of the view that no purpose will be served in keeping the petition pending and inviting affidavits.

5. Since the present case involves a claim of refund from the customs authorities by the petitioner based on the Notification dated March 01, 2011 therefore the Respondents Customs authorities should take a decision as regards the petitioner's claim at the first instance and not this Court under Article 226 of the Constitution of India.

6. Since the petitioner has already made a representation before the Deputy Commissioner of Customs, Appraising Group-5 i.e. the respondent no. 1 on June 26, 2024 (page 66 of the writ petition) in such regard, the said authority is hereby directed to consider and dispose of the petitioner's said representation dated June 26, 2024 strictly in accordance with law, by passing a reasoned order, within a period of six weeks from the date of communication of this order.

7. The respondent no. 1 shall be free to call for such other documents as the respondent no. 1 may

require for the purpose of consideration and disposal of the said representation dated June 26, 2024 made by the petitioner and the petitioner shall furnish all relevant documents in support of the petitioner's contention to the respondent no. 1.

8. Needless to mention that if the respondent no. 1 finds that the petitioner is entitled to refund, the said respondent shall take appropriate steps to ensure that the amount to which the petitioner is entitled is paid to the petitioner expeditiously, in accordance with law. However, if the respondent no. 1 is of the opinion that the petitioner is not entitled to refund, then the said respondent shall pass a reasoned order and communicate the same to the petitioner within a week from passing thereof.
9. It is clarified that this order shall not be treated as any mandate to make payment to the petitioner on account of refund as claimed, if the petitioner is not entitled thereto.
10. WPA 19837 of 2025 stands disposed of with the above observations. No costs.

(Om Narayan Rai, J.)