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W.P.No.19088 of 2024

In the High Court of Judicature at Madras

Reserved on
30.10.2025

Delivered on :
05.11.2025

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.19088 of 2024

Best Fabrics rep.by
Mrs.Jaya Vaidhyathan

...Petitioner

Vs

1.The Chief Commissioner of
Customs, Customs House,
Rajaji Salai, Chennai-1.

2.The Commissioner of
Customs (Chennai - IV),
Customs House,
Rajaji Salai, Chennai-1.

3.The Commissioner of
Customs (Appeal),
New Custom House,
Meenambakkam,
Chennai-16.

4.The Assistant/Deputy
Commissioner of Customs
(Drawback), Chennai IV
Commissionerate,
Customs House,
Rajaji Salai, Chennai-1.



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5.The Assistant/Deputy
Commissioner of Customs
(Drawback), Chennai VII
Commissionerate,
Air Cargo Complex,
Meenambakkam, Chennai-27.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the orders passed by the 3rd respondent dated 13.6.2024, quash the same by issuing a Mandamus to the 4th as well as the 5th respondents to make the payment of the statutory interest amount payable on delayed payment of drawback made by them from 12.10.1994 as directed by the 2nd respondent in their orders dated 14.9.2020 and 27.7.2022.

For Petitioner : Mr.T.R.Rajagopalan, SC for
Mr.C.V.Vijayakumar

For Respondents : Mr.A.P.Srinivas, SSC

ORDER

This writ petition has been filed challenging the proceedings of the third respondent dated 13.6.2024 and for a consequential direction to respondents 4 and 5 to pay the statutory interest amount on

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delayed payment of drawback made by them from 12.10.1994 as directed by the second respondent vide orders dated 14.9.2020 and 27.7.2022.

2. Heard both.

3. The case of the petitioner is as follows :

(i) The petitioner was exporting garments during the period 1992-1994 and was also importing ancillary goods. At that point of time, the petitioner availed Duty Entitlement Exemption Certificate (DEEC), which was also known as advance licence as incentive for the exports made by the petitioner in lieu of drawback amount payable against exports under 69 shipping bills.

(ii) Some disputes arose relating to payment of customs duty after availing the DEEC licence and eventually, it was resolved with the Customs Department for payment of duty demanded on exports made under Kar Vivad Samadhan Scheme. The petitioner made an application on 12.12.1994 before the Joint Director General of Foreign Trade, Chennai (JDGFT), Chennai-14 for conversion of the 69 shipping bills under the DEEC licence to drawback shipping bills and asked for



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the drawback to be paid for the exports made under the 69 shipping bills. But, no decision was taken in spite of repeated requests made by the petitioner. Ultimately, an order dated 17.8.2007 came to be passed by the Commissioner of Customs (Export), Customs House, Rajaji Salai, Chennai-1 rejecting the request made by the petitioner for conversion of advance licence shipping bills to drawback shipping bills.

(iii) The said order dated 17.8.2007 was put to challenge by the petitioner by filing W.P.No.5480 of 2009 before this Court and it was allowed by order dated 23.10.2019 in the following terms :

"6. For the aforesaid reasons, the impugned order fails and is set aside. The first respondent will issue a notice to the petitioner calling upon it to appear for a personal hearing and pass orders de novo on the request of the petitioner for conversion of Advance Licence shipping bills to Drawback shipping bills. The petitioner is granted liberty to file supporting documents, if any in addition to advancing oral submissions. After conclusion of personal hearing, a speaking order on merits shall be passed by the first respondent within a period of four (4) weeks."

(iv) Pursuant to the said order dated 23.10.2019, the Customs Authorities passed several orders allowing the drawback claim with a finding that the claim for drawback was filed by the petitioner on



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12.12.1994, that all the conditions relating to the grant of drawback under Section 75 of the Customs Act, 1962 (for short, the Act) have been satisfied by the petitioner and that the total drawback amount was Rs.21,66,004/- for the exports made under the 69 shipping bills.

(v) After the above orders were passed, the second respondent, vide order dated 14.9.2020, found that the petitioner would be eligible for the drawback for the exports made under the 69 shipping bills. But, the second respondent curtailed the payment to 50% of the total drawback amount. Further, a direction was issued to respondents 4 and 5 to make the payment in accordance with the provisions of Section 75 of the Act.

(vi) Pursuant to the said order dated 14.9.2020, respondents 4 and 5 passed orders respectively dated 30.4.2021 and 07.5.2021 for payment of 50% of the drawback amount without any interest being paid for the delayed payment, which according to the petitioner, were contrary to the provisions of the Act.

(vii) Later, the said order dated 14.9.2020 passed by the second respondent was put to challenge by the petitioner by filing an appeal before the Customs, Excise and Service Tax Appellate Tribunal, Chennai (CESTAT) on the ground that the petitioner would be entitled



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to the entire drawback amount and that it could not be limited to 50%.

The CESTAT, vide order dated 04.2.2022, allowed the appeal filed by the petitioner, set aside the order dated 14.9.2020 passed by the second respondent and remanded the matter to the file of the second respondent for passing fresh orders.

(viii) Thereafter, the second respondent passed fresh orders dated 27.7.2022 allowing payment of 100% drawback, however, restricting payment of drawback to 50 shipping bills falling under the jurisdiction of the second respondent and directed the fourth respondent to pay the balance 50% drawback amount to the petitioner in accordance with the provisions of Section 75 of the Act.

(ix) The orders dated 30.4.2021 and 07.5.2021 passed respectively by respondents 4 and 5 denying payment of interest were also put to challenge respectively before the Commissioner of Customs (Appeals-II) and the Commissioner of Customs (Appeals-I), Chennai-1. Both the Appellate Authorities, vide two separate orders dated 08.8.2022, remanded the matters to the file of respondents 4 and 5 for passing orders with regard to payment of interest on delayed payment of drawback for the exports made under 69 shipping bills.



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(x) Subsequently, respondents 4 and 5 passed the orders respectively dated 06.12.2022 and 27.9.2022 once again for payment of the remaining 50% of the drawback amount without interest. The order dated 06.12.2022 passed by the fourth respondent was put to challenge by the petitioner before the third respondent by filing an appeal on the ground that the petitioner would be entitled to interest and that the order passed by the fourth respondent was not in compliance of the earlier order passed by the second respondent. But, the third respondent, vide the impugned order dated 13.6.2024, confirmed the order dated 06.12.2022 passed by the fourth respondent by denying payment of interest on delayed payment of drawback to the petitioner. Aggrieved by that, the present writ petition has been filed before this Court.

4. The Assistant Commissioner of Customs (Legal), Customs House, Chennai filed a counter affidavit on behalf of the respondents wherein they took the following stand :

Interest was not payable to the petitioner from the year 1994. Interest becomes due only from the date of filing of the claim and it should be complete in all respects. The conversion from advance



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licence shipping bills to drawback shipping bills took place only pursuant to the order passed by the second respondent dated 14.9.2020. The petitioner had to submit the requisite documents towards the drawback claim and the complete set of documents was received only on 12.4.2021. The payment of drawback was made on 07.5.2021, which was within one month from the date of claim made by the petitioner. In view of the same, no interest was payable to the petitioner and whatever amount the petitioner would be entitled to under the drawback shipping bills was disbursed. Ultimately, the respondents sought for dismissal of this writ petition.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

6. The main ground that was urged by the learned Senior Counsel appearing on behalf of the petitioner was as follows :

(a) In the year 1994-95, all the original documents were submitted for conversion and payment of drawback with both the Customs Department as well as the Director General of Foreign Trade



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(DGFT). This fact was recorded by the second respondent when the order was passed on 14.9.2020. The second respondent rendered a finding that the petitioner would be entitled to the drawback claim. However, it was made clear that it would confine to 50%. On appeal, the CESTAT set aside the order dated 14.9.2020 after recording that the petitioner would be entitled to 100% drawback. This order had become final. The interest was liable to be paid to the petitioner from 1994 till the date of actual payment of the drawback amount and it could not be limited to one year from 2021 to 2022. Payment of interest for the delayed drawback is a statutory right recognized under Section 75A of the Act.

(b) To substantiate the same, he relied upon the decision of the Hon'ble Apex Court in ***Union of India Vs. B.T.Patil & Sons Belgaum (Construction) (P) Ltd. [reported in 2024 (3) SCC 645]***.

7. The main defence that was taken on the side of the respondents was as follows :

The petitioner would be entitled to the drawback claim only from the date of the order converting the advance licence shipping bills to drawback shipping bills. This order was passed only in the year 2020.



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The petitioner had submitted all the relevant documents only on 12.4.2021 and since the payment of drawback was made within 30 days, the petitioner was not entitled to payment of interest.

8. The case in hand involves interpretation of Section 75A of the Act, which provides for interest on drawback. For proper appreciation, Sub-Section (1) of Section 75A of the Act is extracted as hereunder :

"Where any drawback payable to a claimant under Section 74 or Section 75 is not paid within a period of one month from the date of filing a claim for payment of such drawback, there shall be paid to that claimant in addition to the amount of drawback, interest at the rate fixed under section 27A from the date after the expiry of the said period of one month till the date of payment of such drawback :"

9. On a careful reading of the above provision, it is seen that where the drawback becomes payable to a claimant under Section 74 or Section 75 of the Act and if it is not paid within a period of one month from the date of filing of the claim for payment of such drawback, the claimant is entitled to payment of interest at the rate fixed under Section 27A from the date after the expiry of the period of



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one month till the date of payment of such drawback.

10. Section 27A of the Act speaks about the interest on delayed refunds. For the purposes of Section 75A, this provision will have relevance only in so far as determining the rate of interest payable on the drawback is concerned.

11. The petitioner made an application to the DGFT on 12.12.1994 for conversion of advance licence shipping bills to drawback shipping bills. From then, the petitioner was asked to submit various documents by several authorities including the DGFT, the Customs Department, the Ministry of Commerce, the Ministry of Finance, etc. Ultimately, the Commissioner of Customs (Export), Custom House, Chennai-1, vide proceedings dated 17.8.2007, rejected the claim made by the petitioner on the ground that the petitioner had not fulfilled the requirements to allow conversion of advance licence shipping bills to drawback shipping bills.

12. The said order dated 17.8.2007 was put to challenge before this Court by filing W.P.No.5480 of 2009 and it came to be disposed of



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only on 23.10.2019 i.e. nearly after 10 years. Pursuant to the said order dated 23.10.2019, the matter went back to the file of the second respondent and an order came to be passed on 14.9.2020 after rendering a finding that the request made by the petitioner for conversion of advance licence shipping bills to drawback shipping bills could be considered and that the petitioner would be entitled to only 50% of the FOB value of exports made for the entire 69 shipping bills.

13. Once such a finding is rendered, the right of the petitioner will have to relate back to the date, on which, the application was submitted by the petitioner on 12.12.1994. If the case is dragged on for so many years, the petitioner cannot be blamed since the first portion of delay is attributable to the concerned authorities till the year 2007 and the remaining portion of delay is attributable to this Court for having kept the earlier writ petition pending for ten years. Hence, the order dated 14.9.2020 passed by the second respondent permitting the drawback has to relate back to the date of application filed by the petitioner and the petitioner would be entitled to drawback from that date.



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14. It is also relevant to take note of the fact that the order dated 14.9.2020 passed by the second respondent was taken on appeal before the CESTAT, which, by order dated 04.2.2022, came to the conclusion that under Section 75 of the Act, the drawback should be allowed wherever the imported materials were utilized in the manufacture of goods, which were exported. There was no denial of the fact that the petitioner had satisfied this requirement. It was further concluded that there was absolutely no justification in adopting the drawback for 50% of the FOB value and that it was not in line with Section 75 of the Act. Ultimately, the matter was remanded to the file of the second respondent for passing fresh orders.

15. After the matter was remitted back, the second respondent passed the order dated 27.7.2022 for payment of drawback on 100% of the FOB value of exports in so far as 50 shipping bills were concerned, falling under the jurisdiction of the second respondent. When the earlier order dated 14.9.2020 was passed by the second respondent, respondents 4 and 5 were directed to pay 50% of the drawback and they passed orders on 30.4.2021 and 07.5.2021 and made payment of 50% of the drawback without interest.



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16. The said orders dated 30.4.2021 and 07.5.2021 were put to challenge respectively before the Commissioner of Customs (Appeals-II) and the Commissioner of Customs (Appeals-I), Chennai, who by two separate orders dated 08.8.2022, remanded the matter to the file of the fourth respondent and the fifth respondent, as the case may be, for passing fresh orders with regard to payment of interest on delayed payment of drawback for exports made under the 69 shipping bills. Both come under Sea Customs and Air Customs respectively.

17. Respondents 4 and 5 once again passed orders on 06.12.2022 and 27.9.2022 respectively for payment of the remaining drawback amount of 50%. In so far as the fourth respondent was concerned, vide order dated 06.12.2022, it was concluded that the petitioner would be entitled to interest on duty drawback only from 12.5.2021 till the date of transfer of drawback amount into the account of the petitioner at the rate provided under Section 27A of the Act. This finding was rendered on the ground that the duty drawback amount was sanctioned only by order dated 30.4.2021.



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18. A similar order was passed by the fifth respondent dated 27.9.2022 after finding that since the duty drawback amount has been processed within one month from the date of submission of the claim, no interest was liable to be paid under Section 75A of the Act. The order dated 27.9.2022 passed by the fifth respondent covered 19 shipping bills whereas the order dated 06.12.2022 passed by the fourth respondent covered 50 shipping bills.

19. As against the order dated 06.12.2022 passed by the fourth respondent, the petitioner filed an appeal before the third respondent since it pertained to 50 shipping bills. However, the third respondent, by the impugned order dated 13.6.2024, confirmed the order passed by the fourth respondent. The only justification that has been given by respondents 3 to 5 was that in so far as the 50 shipping bills were concerned, the claim for drawback was complete only on 12.4.2021 and that since the payment of drawback was made on 07.5.2021, which was within one month, no interest was payable. In the other case covering 19 shipping bills, interest was paid from 12.5.2021 till the date of transfer of the drawback amount.



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20. The respondents have come to the conclusion that the interest was payable only if there was a delay of more than one month from the date of sanction. This interpretation given by the respondents runs contrary to the plain language used under Section 75A of the Act. This provision makes it clear that the interest was payable on the drawback amount from the date of filing the claim for payment of such drawback. Hence, it must relate back to the date of application made by the petitioner on 12.12.1994.

21. Section 75A of the Act is a statutory right, which cannot be watered down by the Authorities. The Hon'ble Apex Court, in the decision in **B.T.Patil & Sons Belgaum (Construction) (P) Ltd.**, held that interest on delayed drawback runs from the date of claim till the date of payment and that any delay in payment of the amount does not provide an excuse for the Authorities to deny payment of interest.

22. As observed supra, the petitioner made the claim in the year 1994 and the delay was not attributable to the petitioner. Once an order has been passed in favour of the petitioner for payment of drawback, in the light of the language used under Section 75A of the



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Act, the payment of interest will start after 30 days from the date of filing of the claim. Such a beneficial piece of legislation must be given a wide interpretation and it cannot be interpreted in a pedantic manner as was attempted to be done by the respondents.

23. In the light of the above discussions, the writ petition is allowed, the impugned proceedings of the third respondent dated 13.6.2024 is hereby set aside and there shall be a direction to respondents 4 and 5 to pay the statutory interest under Section 27A of the Act on the drawback amount from 12.12.1994 till the date of actual payment of the drawback amount as mandated under Section 75A of the Act. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes

Neutral Citation : Yes

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Customs, Customs House,
Rajaji Salai, Chennai-1.

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N.ANAND VENKATESH,J

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