IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: **14.02.2025**
CORAM
THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.No.20688 of 2022

M/s. Mohisha Enterprises
represented by its Proprietrix,
Ms.Urvashi Kuckreja,Shop No.4, Glamour Glen CHS Ltd.,
Plot No.100, Dr.Ambedkar Road,
Opp.Soke House Deli,Bandra (W),
Mumbai - 400 050 ...Petitioner

Vs

The Assistant Commissioner of Customs (Refunds-II)
Chennai II Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai - 600 001. ..Respondents

PRAYER: Petition filed under Article 226 of the Constituiton of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned letter dated 09.06.2022 in F.No.S.Misc.No.01/2021 Refunds issued by the Respondent and quash the same and direct the respondent to sanction the refund along with statutory interest.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.M.Santhanaraman,
Senior Standing Counsel

O R D E R

The petitioner has filed this writ petition challenging the impugned order of the respondent dated 09.06.2022, rejecting the petitioner's refund application on the ground that the same is time barred as per the provisions of Section 27 of the Customs Act, 1962.

2. The petitioner has succeeded in the statutory Appeal before the Commissioner of Customs (Appeals) by virtue of an order dated 07.02.2020. Since the petitioner has succeeded in the statutory appeal, the petitioner is entitled for refund of the customs duty. The petitioner had made a request for refund through a letter of their Advocates on 30.05.2022. However, the refund request has been rejected under the impugned order dated 09.06.2022 by the respondent on the ground that the request for refund has been made beyond the period of one year as stipulated under Section 27 of the Customs Act. Aggrieved by the same, this Writ Petition has been filed.

3. The petitioner has challenged the impugned order on the ground that by total non-application of mind to the fact that the period from 01.03.2020 to 28.02.2022, the limitation period is saved on account of the intervention of Covid-19, pursuant to the directions issued by the Honb'le

Supreme Court in Suo Motu W.P.No.3/2020.

4. A counter affidavit has also been filed by the respondent reiterating that the impugned order has been passed by the respondent rightly rejecting the petitioner's request for refund, since the request was made beyond the period of one year and is not in accordance with Section 27 of the Customs Act.

5. However, the contentions of the petitioner as raised in this writ petition that the period from 01.03.2020 to 28.02.2022 has to be excluded for the purpose of saving the limitation on account of Covid -19, pursuant to the directions issued by the Hon'ble Supreme Court in Suo Motu W.P.No.3/2020, has not been considered by the respondent before rejecting the petitioner's request for refund of customs duty.

6. Admittedly, the petitioner has succeeded before the Commissioner of Customs(Appeals). Only pursuant to the same, they had made a request for refund of customs duty. Since the contention of the petitioner that the period from 01.03.2020 to 28.02.2022 has to be excluded for the purpose to saving the limitation has not been considered by the respondent, as seen from the impugned order, the impugned order has to be necessarily quashed and the request of the petitioner for refund has to be considered afresh on

merits and in accordance with law, after giving due consideration to the fact that the period from 01.03.2020 to 28.02.2022 has been excluded for the purpose of saving the limitation pursuant to the direction given by the Hon'ble Supreme Court in Suo Motu W.P.No.3/2020.

7. In the result, the impugned order dated 09.06.2022 passed by the respondent is hereby quashed and the Writ Petition is disposed of by remanding the matter once again before the very same respondent to consider the request of the petitioner seeking for refund afresh on merits and in accordance with law, after giving due consideration to the fact that the period from 01.03.2020 to 28.02.2022 has been excluded for the purpose of saving the limitation pursuant to the directions given by the Hon'ble Supreme Court in Suo Motu W.P.No.3/2020. The respondent shall pass final orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

14.02.2025

vsi
Index : Yes / No
Internet : Yes / No

To

The Assistant Commissioner of Customs (Refunds-II)
Chennai II Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai - 600 001.

ABDUL QUDDHOSE,J.

vsi

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