



W.P.(MD)No.2 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P(MD)No.2 of 2021

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M/s.Avian International,
48, Shreenath Sarthak Industrial Park,
Nr.Torrent Power Sub Station,
Ring Road, Nikol,
Ahmedabad – 382 350.
Through its Partner,
Anurag Borad.

... Petitioner

Vs.

1.The Assistant Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin – 628 004.

2.The Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin – 628 004.

3.Union of India,
(Notice to be served through
The Minister of Finance),
Parliament Street,
Central Secretariat,
North Block,
New Delhi – 110 001.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to refund Rs.12,72,827/- (IGST) along with interest at 9% calculated from 19.09.2017 (date of shipping bill) till the date of actual payment to the petitioner.

For Petitioner : Mr.N.Balasubramanian

For Respondents : Mr.R.Nandakumar for R.1 & R.2

Mr.S.Jeyasingh
Standing Counsel for R.3

JUDGMENT

Heard both sides.

2.The petitioner is an exporter of pharmaceuticals and surgical goods. He paid a sum of Rs.12,72,827/- towards IGST. The petitioner's case comes under what is known as Zero Rated Supply. The petitioner sought refund of the IGST account paid by him by invoking Section 16(3) of IGST Act read with Section 54 of the CGST Act read with Rule 96 of CGST Rules. The petitioner's request was not considered. Hence, this writ petition has been filed.



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WEB COPY 3.The issue raised in the writ petition is no longer *res integra*. The Hon'ble Division Bench of Gujarat High Court in the decision reported in **2019 (7) TMI 472 (M/s.Amit Cotton Industries Through Partner, Veljibhai Virjibhai Ranipa Vs Principal Commissioner of Customs)** had categorically held that the aforesaid circular cannot prevail over Rule 96. The Hon'ble Division Bench observed that the circular will not save the situation for the Department.

4.In this view of the matter, the first respondent is directed to refund a sum of Rs.12,72,827/- together with applicable interest to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

5.This Writ Petition is allowed accordingly. No costs.

[G.R.S., J.] [M.J.R., J.]

21.02.2025

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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M.JOTHIRAMAN, J.

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To

- 1.The Assistant Commissioner of Customs,
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