IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

WP No. 34767 of 2024 AND WMP NOs. 37701 & 37702 OF 2024

Mitra
Represented by its Proprietor
Shri.M.Venkatasubramanian

..Petitioner(s)

Vs

1. The Commissioner of Customs
   Export Commissionerate, Customs House,
   No.60 Rajaji Salai, Chennai- 600 001.

2. The Assistant Commissioner of Customs
   ARC, Export Commissionerate, Office of the
   Commissioner of Customs Chennai IV,
   Customs House, No.60, Rajaji salai,
   Chennai-001

..Respondent(s)

calling for the records relating to the impugned Order - in Original No.89204/2022 dated 30.03.2022 passed by the 2nd Respondent and quash the same as the same being arbitrary, illegal and in violation principles of natural justice and direct the 1st Respondent to remove the Alert on Customs Portal and allow to process the Petitioners export shipments.

For Petitioner(s): Ms.N.Asmitha

For Respondent(s): Mr. SU.Srinivasan
Standing Counsel For R1 & R2

Order

This writ petition has been filed, challenging the impugned order in original dated 30.03.2022 passed by the second respondent, confirming the demand made in the demand cum show cause notice dated 29.03.2017 for recovery of availed drawback amounting to Rs.1,32,078/- against the subject shipping bills as detailed therein under Rule 16 of the Customs and Central Excise Duties Drawback Rules, 1995 along with applicable interest under Section 75A (2) of the Customs Act, 1962.

2.The second respondent has also imposed penalty of Rs.6,604/- on the petitioner under Section 117 of the Customs Act, 1962. The petitioner has challenged the impugned order in original on the ground of violation of principles of natural justice. The petitioner claims that despite the petitioner producing a Chartered Accountant's Negative Certificate/Negative Statement to prove that the foreign exchange for the subject shipping bills were realised by the petitioner, the impugned order in original has been passed. According to the petitioner, due to the procedural lapses of the respondents in not complying with Section 153 of the Customs Act, 1962 by not serving the petitioner with the impugned order in original on time, the petitioner's right to file the statutory appeal within the prescribed time limit got lapsed.

3.The petitioner has stated the reasons in the affidavit filed in support of this writ petition for the procedural lapses committed by the respondents in serving the impugned order in original on the petitioner. The petitioner had also made an attempt to file a statutory appeal as against the impugned order in original on time. According to the petitioner, only due to the procedural lapses on the part of the respondents in serving the impugned order in original to the petitioner on time, the statutory appeal filed by the petitioner has been returned on the ground that the same has been filed beyond the period of limitation. The petitioner contends that due to the procedural lapses committed by the respondents in serving the impugned order in original, the petitioner has been made to suffer by not allowing the petitioner to file the statutory appeal.

4.The petitioner has also filed the supporting documents along with this writ petition to substantiate their case that they have realised the foreign exchange towards the sale proceeds in respect of the 64 disputed shipping bills, which are the subject matter of the impugned order in original. Since the petitioner has placed materials before this Court along with this writ petition, which substantiates the petitioner's case that there were procedural lapses on the part of the respondents in serving the impugned order in original on the petitioner as per Section 153 of the Customs Act, this Court is of the considered view that the impugned order in original has been passed in violation of principles of natural justice and hence, the impugned order in original has to be quashed and the matter has to be remanded back to the very same respondent for fresh consideration, on merits and in accordance with law within a time frame to be fixed by this Court.

5.Though a counter affidavit has been filed by the respondents reiterating the contents of the impugned order in original, in the counter affidavit, the respondents have not rebutted the petitioner's case that there were procedural lapses on the part of the respondents to serve the impugned order in original on the petitioner.

6.Section 153 of the Customs Act provides for the procedure to be adhered to by the respondents for serving an order/decision/summons/notice or any other communication under the Customs Act.

7.The averments contained in the affidavit filed in support of this writ petition makes it clear that the procedure contemplated under Section 153 of the Customs Act with regard to service of order/decision etc. has not been adhered to by the respondents and because of the same, the petitioner was not able to file a statutory appeal as against the impugned order in original.

8.For the foregoing reasons, since the impugned order in original has been passed in violation of principles of natural justice, the impugned order in original dated 30.03.2022 passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration, on merits and in accordance with law. The second respondent shall pass final orders by adhering to the principles of natural justice and by affording adequate personal hearings to the petitioner, within a period of four months from the date of receipt of a copy of this order. With the above direction, this writ petition is disposed of. Consequently, connected WMPs are closed.

9.This Court is not expressing any opinion on the merits of the matter in this writ petition. No costs.

03-02-2026

VGA

To

1. The Commissioner of Customs
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2. The Assistant Commissioner of Customs
   ARC, Export Commissionerate,
   Office of the Commissioner of Customs Chennai IV,
   Customs House, No.60, Rajaji salai, Chennai-001

ABDUL QUDDHOSE J.

VGA

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