



) -WP-773-24.doc.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.773 OF 2024

M/s. Ajay Industrial Corporation Ltd. ..Petitioner
Versus
The Assistant Commissioner of Customs
CRC, SAD-I/II/V/VI ..Respondent

Mr. Rajiv Jaipal i/by Francis Fernandes, for the Petitioner.
Ms. Jaymala Ostwal a/w Mamta R. Omle, for the Respondent.

CORAM : G. S. KULKARNI &
KISHORE C. SANT, JJ.

DATE : 19th MARCH, 2024

PC.

1. Heard learned counsel for the parties.
2. Petitioner had filed 7 refund claims for refund of additional duty amounting to Rs.29,16,400/- which was for the period from 2nd April, 2013 to 30th April, 2015. The Adjudicating Authority had initially rejected the said refund claims by orders which are stated to be orders from 20th January, 2017 to 3rd March, 2017. In such situation the Petitioner approached the Appellate Authority, namely the Commissioner of Appeals against such orders rejecting its refund applications. By an order dated 28th December, 2017, the Commissioner of Appeals set aside the orders in original and remanded the proceedings of the Refund Applications to the Adjudicating Authority. On remand in adjudicating the Refund

BGP

1 of 4

(9)-WP-773-24.doc.

Applications, the adjudicating officer by an order dated 3rd July, 2019, 13th January, 2019 (three orders) and 9th April, 2019 (two orders), the Refund Applications of the Petitioner were allowed thereby granting refund of the amounts as set out in the said Refund Orders. The Petitioner has drawn our attention to the prayers of the Petitioner made before the Appellate Authority being a prayer which was not only in respect of the grant of refund in regard to the refund claims but also the prayer that the refund be sanctioned with interest. It is on such plea of the Petitioner, the Commissioner had allowed the Petitioner's Appeals and remanded the proceedings of the refund application to the adjudicating officer.

3. Learned counsel for the petitioner has drawn our attention to the orders in original directing refund. His contention is that although the refund claims have been allowed as set out in the refund orders in question, however, the Adjudicating Authority/Deputy Commissioner of Customs has failed to pass any orders on the interest and grant the Petitioner of the benefit of provisions of Section 27A of Customs Act which becomes statutory entitlement of the Petitioner to be granted interest on such refund.

4. We heard learned counsel for the parties. We have also perused the record. Learned counsel for the Respondent has vehemently opposed the prayers, as made in the Petition.

5. We are however of the opinion that there is substance in

(9) -WP-773-24.doc.

the contention as urged of behalf of the Petitioner as certainly Section 27A would provide for payment of interest on delayed payment of the refund amounts, which is the statutory entitlement of the Petitioner and which necessarily was required to be considered by the adjudicating officer in considering the Refund Applications on remand. It clearly appears that although a specific prayer was made before the Commissioner of Appeals and the proceedings were remanded in that regard, the Designated Officer has failed to consider such prayers. Even assuming the Petitioner had not made a prayer for interest, however, the fact remains that it would be a statutory entitlement of the Petitioner to seek the interest on the refund amounts when such applications were allowed.

6. In this view of the matter, we are of the opinion that the Adjudicating Officer/Respondent be directed to decide the interest claim of the Petitioner on the Refund Applications, after granting to the Petitioner an opportunity of a hearing on the quantum. This be done within a period of four weeks from today and accordingly grant appropriate interest to the Petitioner in accordance with law.

7. Let the Adjudicating Officer call the Petitioner for hearing by issuing seven days notice, so that all the documents whatever necessary can be presented before the Adjudicating Officer so as to enable him to pass appropriate order granting refund to the Petitioner.

BGP

3 of 4

(9) -WP-773-24.doc.

8. All contentions in that regard are expressly kept open.
9. Ordered accordingly.
10. The Petition stands disposed of in aforesaid terms. No costs.

[KISHORE C. SANT, J.]

[G. S. KULKARNI, J.]