

2020-TIOL-409-HC-MAD-CUS

**IN THE HIGH COURT OF MADRAS**

**WP No. 37472 of 2016  
WMP Nos.32078 to 32080 of 2016**

**M/s HLG TRADING  
SPACE 'E', THIRD FLOOR, SURYA KIRAN BUILDING  
92, THE MALL, LUDHIANA-141001**

**Vs**

**1) COMMISSIONER OF CUSTOMS (APPEALS-II)  
CUSTOM HOUSE, NO.60, RAJAJI SALAI  
CHENNAI-600001**

**2) ASSISTANT COMMISSIONER OF CUSTOMS  
(REFUNDS-SEA), CUSTOM HOUSE, NO.60  
RAJAJI SALAI, CHENNAI-600001**

**C Saravanan, J**

**Dated: January 24, 2020**

**Appellant Rep by:** Mr V Shanthanam

**Respondent Rep by:** Mr S Rajasekar Standing Counsel

**Cus** - The assessee-company had claimed refund of SAD in terms of Notfn No 102/2007-Cus - The same was accepted on adjudication - However, such findings were overturned by the Commr.(A) - Hence the present writ.

**Held:** The counsel for the Revenue pointed out that the issue of refund of SAD was considered by the Tribunal, which settled the issue in favor of the assessee - Such order had been accepted by the Department - Hence the present petitions merit being allowed - The assessee may seek refund of the SAD by way of applications filed within 2 weeks from date of this order: HC

**Writ petitions allowed**

**JUDGEMENT**

**Per: C Saravanan:**

The petitioner has challenged the impugned order passed by the office of The Commissioner of Customs (Appeals-II) vide order dated 20.07.2016 bearing reference No. Order in Appeal C.Cus II No.729 to 733/2016 dated 20.07.2016.

2. Heard the arguments of the learned counsel for the petitioner and the learned counsel appearing for the respondent.

3. By the impugned order, the first respondent-Commissioner of Customs (Appeal) has confirmed the order of the second respondent claiming refund of SAD (Special Additional Duty) in terms of Notification No.102/2007-Cus dated 14.09.2007. Both the counsel fairly submits that the Department has accepted the availability of SAD refund and to that effect, orders have been passed by this Court in W.P. Nos. 3700, 2431 to 2433 of 2017 etc., dated 23.09.2019. The operative portion of the order which reads as follows:

**"Common Order"**

***"The petitioners in this batch of writ petitions challenge notices/order-in-original/appellate orders proposing to reject/rejecting the request for refund of special additional duty.***

2. Mr.A.P.Srinivas, learned Central Government Standing Counsel for the respondents fairly points out that the issue of refund of special additional duty was considered by the Customs, Central Excise and Service Tax Appellate Tribunal vide order dated 02.06.2017 and the issues decided in favour of the importer. This order has been accepted by the Department.

3. These writ petitions are thus liable to be allowed and I do so. The petitioners may seek refund of the special additional duty paid by way of an applications to be filled within a period of two (2) weeks from today. Upon receipt thereof, necessary orders for refund shall be passed by the respondent. Connected Miscellaneous Petitions are closed. No costs."

4. Since the issue is covered by the aforesaid order passed by the learned Single Judge of this Court, dated 23.09.2019 in W.P.Nos. 3700, 2431 to 2433 of 2017 etc., the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

(Paras are numbered as per the original text: **Editor**)

**(DISCLAIMER**

**: Though all efforts have been made to reproduce the order correctly but the access and circulation is subject to the condition that Taxindiaonline are not responsible/liable for any loss or damage caused to anyone due to any mistake/error/omissions.)**