

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 20634 of 2011

Date of Decision: 05.12.2011

M/s Singla Industries

.....Petitioner

Versus

Union of India and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE G. S. SANDHAWALIA**

Present: Mr. Saurabh Kapoor, Advocate and
Mr. Rishabh Kapoor, Advocate
for the petitioner

Mr. H.P.S. Ghuman, Advocate
for the respondents

HEMANT GUPTA, J.

The petitioner claims writ of mandamus for granting refund of Rs. 1,93,659/- alongwith interest in respect of bill of entry dated 07.10.2009.

The petitioner is engaged in the business of Import and Trading of scrap. The consignment of Heavy Melting Scrap was purchased by the petitioner vide Invoice dated 02.07.2009. The petitioner filed bill of entry on 31.7.2009. When the goods were examined, it was found that goods had been short shipped to the extent of 103.52 MTS. The petitioner, thereafter, filed the refund claim application dated 7.11.2009 with all the requisite documents but such refund application was not dealt with. The petitioner also filed an appeal before the Commissioner of Customs and Central Excise (Appeals) Chandigarh challenging the assessment made in

the Bill of Entry. Such appeal was allowed on 28.02.2011, setting aside the assessment made in the Bill of Entry for the refund of excess Customs Duty was ordered.

Since the refund was not made, the petitioner filed the instant writ petition before this Court.

Mr. H.P.S. Ghuman, counsel for the respondents has filed reply in the Court. It is pointed out that after the appeal allowed by the Commissioner (Appeal) on 28.02.2011, re-assessment proceedings were initiated and finalised by the Assistant Commissioner of Customs on 18.11.2011. The refund of Rs. 1,93,657/- has been sanctioned vide Refund Sanction Order dated 28.11.2011.

The grievance of the petitioner is in respect of payment of interest on the aforesaid amount. It is asserted that the petitioner became entitled to refund the amount with the passing of order dated 28.2.2011 whereas the refund has been made on 28.11.2011.

Keeping in view the amount of refund and the period involved, we do not find it necessary to examine the claim of the interest in terms of Section 27(A) of the Customs Act, 1962. The said question will be examined in an appropriate case.

The petition stands disposed of as infructuous.

(HEMANT GUPTA)
JUDGE

(G.S. SANDHAWALIA)
JUDGE

05.12.2011

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