

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTIONS

NOTICE OF MOTION NO.1413 OF 2015
IN
CUSTOM APPEAL NO.45 OF 2015

The Commissioner of Customs (General)	Applicant
versus	
Mahendra Shipping Agency	Respondent

Mr.Pradeep S. Jetly for Applicant.

Mr.Prakash Shah with Mr.Jas Sanghavi i/by M/s.PDS Legal for Respondent.

CORAM : S.C.DHARMADHIKARI AND
B.P.COLABAWALLA, JJ.

DATE : 14 September 2015

PC :

1. After the Appeal No.45 of 2015 was heard for some time, we indicated to the parties that we are admitting the appeal on the substantial question of law but it can be finally disposed of vide workable arrangement and order.

2. Mr.Jetly appearing in support of the appeal on behalf of Revenue states that the competent authority would require three months period to conclude the enquiry and take a

decision, provided, the respondent co-operates with the officer in concluding the enquiry and put expeditious end to the same.

3. Mr.Shah for the respondent submits that the original file would indicate that the respondent has fully co-operated and has not sought any unnecessary or frivolous adjournment and has not made a request contrary to the law. Rather on some occasions, the Inquiry Officer himself was not available. Therefore, the Revenue should not blame the respondent-agent for the so called delay in conclusion of the enquiry.

4. We are of the view that any larger question or controversy need not be gone into and decided in the facts and circumstances peculiar to this case. Since the suspension has been continuing, it would be appropriate if we dispose of this Notice of Motion by keeping the larger question open with the following order and direction :

ORDER

(a) The competent authority shall conclude the enquiry within a period of three months from today. Meaning thereby the enquiry should be concluded by the Deputy Commissioner, who should submit his report to the Commissioner and the Commissioner should take further steps in accordance with the Regulations, all within this period of three months;

(b) The respondent shall appear before the Inquiry Officer on 23 September 2015 at 10.30 a.m. The period of three months shall start from that day;

(c) If for reasons other than non co-operation of the respondent-agent, the enquiry cannot be concluded within the above period, then at the end of the same, the Commissioner shall restore the license of the respondent-agent with a right to continue the enquiry and conclude the same as expeditiously as possible. The competent authority/Inquiry Officer shall allow the respondent-agent to produce all materials as are permissible in law and must submit his report uninfluenced by any interim or tentative findings in the suspension order. While passing the final order, the Commissioner shall not be influenced by his tentative conclusions.

(d) All contentions of both the sides on the charges are kept open.

5. Needless to clarify that we have expressed no opinion on the rival contentions as far as legal question and also on the maintainability or continuation of the enquiry proceedings after the period specified in Regulations 19 and 20 of the Regulations.

6. The Notice of Motion No.1413 of 2015 stands disposed of with no order as to costs. The appeal also is disposed off.

(S.C.DHARMADHIKARI, J.)

(B.P.COLABAWALLA, J.)

MST

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.