

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WA.No. 696 of 2012 () IN WP(C).5339/2012

**AGAINST THE ORDER/JUDGMENT IN WP(C) 5339/2012 of HIGH COURT OF KERALA
DATED 12-03-2012**

APPELLANT(S)/RESPONDENT:

**THE COMMISSIONER OF CUSTOMS
CUSTOMS HOUSE, WILLINGTON ISLAND, KOCHI-682 009.**

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENT(S)/PETITIONER:

**M/S.DECCAN ENTERPRISES
REP. BY ITS PROPRIETOR SHRI.ANAND GANDHI, 1-3-C2
KAVADIGUDA, HYDERABAD-500 080.**

BY SRI.P.A.AUGUSTIAN

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 03-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 696 of 2012
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Dated this the 3rd day of March, 2015

J U D G M E N T

Antony Dominic, J.

The respondent in W.P.(C).No. 5339/12 is the appellant. The writ petition was filed by the respondent herein seeking a direction to the appellant to comply with Ext.P4 order passed by the Commissioner of Customs (Appeals), Cochin and to release the goods imported under bill of entry No.2092 dated 14/9/2010.

2. In the writ petition, the only contention raised by the appellant was that, against Ext.P4 order, the appellant has already filed an appeal before the Central Excise and Service Tax Appellate Tribunal and that since Ext.P4 order had not attained finality, they should not be compelled to comply with the order. However, in the judgment under appeal, the learned single Judge held that since the appellate tribunal had not stayed implementation of Ext.P4, the appellant was obliged to comply with the directions therein. It was accordingly that the learned Judge ordered to implement Ext.P4 and to release the goods. It is this judgment which is under challenge before us.

3. We heard the learned counsel for the appellant and considered the submissions made.

4. When the appeal was taken up, in answer to the query made by us, learned counsel for the appellant submitted that the appeal filed against Ext.P4 has since been dismissed by the Tribunal. This, therefore, means that Ext.P4 has attained finality and the ground of pendency of appeal, which was pressed into service before the learned single Judge, is no longer available to the appellant to resist the implementation of the said order. If that be so, the conclusion of the learned single Judge cannot be faulted.

Appeal fails and is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge