IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Writ Appeal No.1236 of 2015
and
M.P.No.1 of 2015

M/s.D.V.R.Freight Forwarders Pvt. Ltd.,
Represented by its Managing Director,
Shri.R.Saravana Kumar,
'Sea View Towers' Phase II,
Ground Floor, 12/9,
Krishna Koil Street,
Chennai - 600 001. ...Appellant

Vs.

1.The Commissioner of Customs (Imports),
Custom House No.60, Rajaji Salai,
Chennai - 600 001.

2.The Inquiry Officer/
Deputy Commissioner of Customs,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001. Respondents

This Writ Appeal has been filed under Clause 15 of Letter Patent against the order dated 15.07.2015 made in Writ Petition No.28921 of 2014 filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records pertaining to the Impugned Order-in-Original 30233/2014 dated 20.10.2014 in F.No.R-243/CHA passed by the 1st Respondent and quash the same.

For Appellant : Mr.Hari Radhakrishnan

For Respondents : Mr.T.Chandrasekaran, SPC

JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN,J.,)

The writ petition filed by the appellant herein challenging an order in original passed by the Commissioner of Customs (Seaport -Import), having been dismissed by a learned Judge, directing the appellant to avail the alternative remedy, the appellant has come up with the above appeal.

2.Heard Mr.Hari Radhakrishnan, learned counsel for the appellant and Mr.T.Chandrasekaran, learned Senior Panel Counsel for the respondents.

3.The appellant is aggrieved by an order dated 20.10.2014 passed by the Commissioner of Customs (Seaport-Import), revoking his license as a Customs Broker and forfeiting the bill amount of security deposit made by him.

4.Admittedly, the appellant has an alternative remedy of appeal to Customs, Central Excise and Service Tax Appellate Tribunal under Regulation 21 of the Customs Brokers License Regulations, 2013 r/w Section 129(A) of the Customs Act, 1962. Therefore, we see no reason to entertain the appeal.

5.However, the fact remains that the period of limitation for filing an appeal has been now expired. But the order in original was dated 20.10.2014 and the writ petition was filed by the appellant on 05.11.2014, within a period about 16 days. The writ petition ultimately came to be dismissed by an order dated 15.07.2015 and the above appeal was filed within the period of limitation. Therefore, the period during which the appellant has prosecuting the remedy before this Court, has to be excluded while calculating the period of limitation for filing a statutory appeal.

6.With the above observations, the writ appeal is dismissed. The appellant is at liberty to file an appeal before the Customs, Central Excise and Service Tax Appellate Tribunal under Regulation 21 of the Customs Brokers License Regulations, 2013 r/w Section 129(A) of the Customs Act, 1962. The period from 05.11.2014 upto the date of the receipt of a copy of this judgment shall be excluded for calculating the period of limitation for filing statutory appeal. If the appellant files an appeal (after adjusting the above period), the

Tribunal shall endeavour to dispose it of, within a period of four months since, the revocation of the license has the effect of affecting the livelihood of the appellant. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

jbm

To

1.The Commissioner of Customs (Imports),
Custom House No.60, Rajaji Salai,
Chennai - 600 001.

2.The Inquiry Officer/
Deputy Commissioner of Customs,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.

1 CC to Mr.Hari Radhakrishnan, Advocate SR.No. 45349

1 CC to Mr.T.Chandrasekaran, Advocate SR.No. 45440

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M.P.No.1 of 2015

EV (CO)
PSI (28.08.2015)