In the High Court of Judicature at Madras

Dated : 08.10.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Civil Miscellaneous Appeal No.2243 of 2015 & M.P.No.1 of 2015

The Commissioner of Customs
(Sea Port Import), Customs
House, Chennai-1.
...Appellant

Vs

1. The Customs, Excise & Service
   Tax Appellate Tribunal, South
   Zone Bench, Shastri Bhavan,
   Haddows Road, Chennai-6.

2. M/s.S.S.International, rep.by
   Partner Mr.R.Sethuprakasam ...Respondents

APPEAL under Section 130 of the Customs Act, 1962 against the order dated 21.10.2014 made in Final Order No.40769 of 2014 on the file of the first respondent herein.

For Appellant : Mr.K.Mohanamurali
For Respondent-2 : Mr.S.Murugappan

Order of the Court was made by V.RAMASUBRAMANIAN,J

The Commissioner of Customs has come up with the above appeal under Section 130 of the Customs Act, 1962 questioning the correctness of a final order passed by the first respondent herein setting aside an order of suspension of Customs House Agent licence.

2. Heard Mr.K.Mohanamurali, learned counsel for the appellant. Mr.S. Murugappan, learned counsel takes notice for the second respondent.

3. The second respondent was issued with a Customs House Agent licence bearing No.R260/CHA. The licence was valid upto 6.4.2015.

4. On the basis of an investigation by the Docks Intelligence Unit of the Customs, the Commissioner of Customs passed an order on 25.4.2012 in terms of Regulation 20(2) of the Customs House Agent Licence Regulations, 2004, suspending the licence of the second respondent. The second respondent was granted a personal hearing on 9.5.2012. By an Order in Original passed on 24.5.2012, the suspension was directed to be continued. Thereafter, the Assistant Commissioner was appointed as the Enquiry Officer to conduct an enquiry.

5. Challenging the order of suspension and the continuation of suspension, the second respondent filed an appeal before the Tribunal. The Tribunal, by a final order dated 21.10.2014, allowed the appeal and set aside the order of suspension, on the basis of an earlier decision of the Tribunal itself in the case of D.Thimmeswara Rao & Others Vs. Commissioner of Customs (Port - Import) [Final Order No.40566- 40569/2013 dated 12.11.2013]. In the said decision, the Tribunal noted the distinction between the proceedings under Regulation 20 and the proceedings under Regulation 22. The Tribunal also took note of another decision of the Tribunal in Manjunatha Shipping Services Limited Vs. Commissioner of Customs (Import) [Final order No.40461/2013 dated 10.10.2013].

6. As a matter of fact, the judgment of the Tribunal in D.Thimmeswara Rao was affirmed by this Court in C.M.A.Nos.1422 to 1426 of 2014 by a common judgment dated 27.6.2014. We have also followed the said decision in a number of cases. Therefore, we do not think that the order of the Tribunal calls for any interference.

7. Moreover, the Customs House Agent licence granted to the second respondent expired on 6.4.2015. Hence, the appeal arising out of an order of suspension had actually become infructuous.

8. Hence, without pronouncing any opinion on the merits of the cases, which may have an indirect or direct influence upon the question of renewal of the Customs House Agent licence, we dismiss the appeal. No costs. Consequently, the above M.P. is also dismissed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Customs, Excise & Service Tax Appellate Tribunal, South Zone Bench, Shastri Bhavan, Haddows Road, Chennai-6.

+1 cc to Mr.K.Mohanamurali,Advocate(sr.54882)

CMA.No.2243 of 2015
and M.P.No.1 of 2015

LRS(co)
cp 27/10/2015