

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. No.651 of 2015

The State Trading Corporation of India Ltd.
Chennai 600 108

Appellant

vs.

1 The Commissioner of Customs
Customs House
Rajaji Road, Chennai 600 001

2 The Assistant Collector (IAD), CRA
Customs House
Rajaji Road
Chennai 600 001

3 The Assistant Collector of Customs
Customs House (Group 5-B)
Rajaji Road
Chennai 600 001

4 The Deputy Commissioner of Customs
Customs House (Group 5-B)
Rajaji Road
Chennai 600 001

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 30.10.2014 passed in W.P.M.P. No.162 of 2012 in W.P. No.1244 of 2001 to restore the WP.No.12440/2001 dt.22.12.09 to the file of this Court hear and adjudicate the same on merits. Writ petition presented under Article 226 of the Constitution of India to issue a writ a certiorari call for the records on the rule of the 4th respondent in proceedings file No.C9/166/95(pt)Gr.5B dt.28.10.2000 and 29.12.2000 and quash the same (Prayer Amended as per order dt.27.7.09 in WP.MP.467/09 in WP.No.1244/01.

For appellant Mr. R. Selvakumar

For respondents Mr. A.P. Srinivas

JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

Mr. A.P. Srinivas, learned counsel, accepts notice for the respondents.

2 The instant intra-Court appeal is directed against the order dated 30.10.2014 passed in W.P.M.P. No.162 of 2012 in W.P. No.1244 of 2001, wherein, the application for restoration of the disposed of W.P. No.1244 of 2001, was rejected on the ground that once a final decision has been taken in a writ petition, the same cannot be restored or re-heard once again on the basis of subsequent pronouncements of law on the subject.

3 The facts in brief are that assailing the validity of the proceedings dated 28.10.2000 and 29.12.2000 of the Deputy Commissioner of Customs, Customs House, Rajaji Salai, Chennai, the appellant-Corporation had preferred a writ petition being W.P. No.1244 of 2001. The said writ petition was dismissed on 22.12.2009, reserving liberty to the appellant to move the appropriate High Powered Committee for redressal of its grievances.

4 The Supreme Court, by order dated 11.10.1991, in Oil and Natural Gas Commission vs. CCE¹, (ONGC-II), directed the Government of India as under:

"to set up a Committee consisting of representatives from the Ministry of Industry, the Bureau of Public Enterprises and the Ministry of Law, to monitor disputes between Ministry and Ministry of Government of India, Ministry and public sector undertakings of the Government of India and public sector undertakings in between themselves, to ensure that no litigation comes to court or to a tribunal without the matter having been first examined by the Committee and its clearance for litigation."

Thereafter, it was reiterated in Oil and Natural Gas Commission vs. CCE², (ONGC-III) and Oil and Natural Gas Commission v. City and Industrial Development Corporation Maharashtra Ltd.³(ONGC-IV).

5 The aforesaid directions were subsequently withdrawn by the Supreme Court in Electronics Corporation of India Ltd. vs. Union of India and Others⁴. Relying on the said decision, the appellant had

1 1995 Supp (4) SCC 541

2 (2004) 6 SCC 437

3 (2007) 7 SCC 39

4 (2011) 3 SCC 404

filed the instant interim application being W.P.M.P. No.162 of 2012 in the disposed of W.P. No.1244 of 2001 on the ground that in view of recalling of the order of the constitution of High Powered Committee for resolution of the disputes between the Public Sector Undertakings/authorities, the disposed of writ petition be restored to its file.

6 The learned Single Judge considered all the aspects of the matter before coming to the conclusion that once a petition has been decided finally, the same cannot be restored or re-heard on the ground of subsequent pronouncements of law on the subject.

7 We have examined the entire facets of the case. On a perusal of the earlier order dated 12.12.2009 passed in W.P. No.1244 of 2001, it is evident that the said writ petition was dismissed on the ground of availability of alternative remedy. The decision was taken on merits. It was not a case of dismissal for want of prosecution. The said order was passed as under:

"In the light of the law declared by the Supreme Court the writ petition is dismissed, giving liberty to the petitioner, to move the appropriate High Powered Committee for redressing their grievance. If the dispute raised in the writ petition is not resolved, it is open to the petitioner to approach this Court after getting clearance from the High Power Committee. No costs."

8 Thereafter, the appellant, it appears, had not taken any step to approach the High Powered Committee till the Supreme Court had taken a decision in Electronics Corporation of India (supra).

9 Thus, at this stage, the disposed of writ petition cannot be revived or restored to its file, as pleaded by the learned counsel for the appellant. The order sought to be impugned in this writ appeal is just and proper, warranting no interference.

10 Resultantly, the writ appeal fails and is accordingly dismissed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

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+1 cc to Mr.A.P.Srinivas, Advocate,SR.26046

+1 cc to Mr.R.Selvakumar, Advocate,SR.25760.

tej(co)
krd 10/6

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