

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.8.2015

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE T.MATHIVANAN

C.M.A.No.1854 of 2007

The Commissioner of Customs And Central Excise,
6/7, A.T.D. Street,
Race Course Road,
Coimbatore 641 018.

...Appellant

vs.

1. M/s.Anand Freight Overseas Private Limited,
Room No.2, II Floor,
126-Praveen Plasa,
Near S.A.P.Theatre,
Avinashi Road,
Tirupur 641 603.
2. The Customs Excise and
Service Tax Appellate Tribunal,
South Zonal Bench,
Shastri Bhavan, Haddows Road,
Chennai 600 006.

...Respondents

Civil Miscellaneous Appeal against the final order No.1015 of 2006 dated 31.10.2006 in Appeal No.C/220/2006 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For appellant : Mr.S.Thirumavalavan

For R1 : No appearance

JUDGMENT

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

This appeal is by the Revenue under section 130A of the Customs Act, 1962, raising a question of law as to whether a non-existent licence could be revoked retrospectively and whether on the basis of a non-existent licence, forfeiture of security deposit could be ordered.

2. Heard Mr.S.Thirumavalavan, learned Senior Panel Counsel for the appellant. Despite service of notice, the respondent has not chosen to enter appearance.

3. Admittedly, the licence of the first respondent expired on 21.3.2006. The revocation was ordered on 1.7.2006 to have retrospective effect. The licence was not renewed after 21.3.2006. In other words, on and from 22.3.2006, the first respondent has ceased to hold a valid licence. Generally, a licence cannot be revoked with retrospective effect. Once the licence expires on a particular date, the question of revoking the licence after the expiry of the period of licence would not arise. In other words, the question of law raised is to be answered to the effect that a non-existent licence could not be revoked retrospectively.

4. But, in this case, the question raised has become one of mere academic importance since the licence was not renewed. Therefore, the question is answered to the effect that licence cannot be revoked retrospectively, especially, after its expiry.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

ssk.

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To

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1 CC to Mr.S.Thirumavalavan, Advocate SR.No. 46174

C.M.A.No.1854 of 2007

PPA (CO)
PSI (05.10.2015)



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