

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No. 37842 OF 2015

ORDER: *(per Hon'ble Sri Justice Ramesh Ranganathan)*

Several contentions are put forth by Sri C.V.Narasimham, learned counsel for the petitioner, on the validity of the impugned order, including that the petitioner was not given the opportunity to cross-examine the witnesses; the documents sought for by him were not supplied; and the adjudication order was backdated only to avoid dealing with the contentions urged by the petitioner in their final reply dated 02-09-2015 (a copy of which was delivered to the adjudicating authority on 07-09-2015). The petitioner claims that the adjudication order was evidently antedated, as the date of order is recorded therein as 30-08-2015 and the date of issue as 14-09-2015, whereas the final reply submitted by the petitioner was received, in between these two dates, on 07-09-2015.

We see no reason to exercise the discretionary jurisdiction, under Article 226 of the Constitution of India, to entertain this Writ Petition as the petitioner has an effective alternative remedy of a statutory appeal, under Section 129-A of the Customs Act, 1962 ('the Act' for short), to the Appellate Tribunal for Customs, Central Excise and Service Tax, Bangalore ('the CESTAT' for short), which has the power to examine questions of fact and law.

Sri C.V.Narasimham, learned counsel for the petitioner, would submit that, if this Court is not inclined to entertain the Writ Petition on the ground that the petitioner has an effective alternative remedy of a statutory appeal, the CESTAT should, at least, be directed to consider the contentions urged by the petitioner in their final reply dated 02-09-2015. All these contentions can be urged before the CESTAT. We have no reason to doubt that, on a request being made by the petitioner for the objections in their final reply dated 02-09-2015 to be considered, the CESTAT would examine such a request in accordance with law.

Leaving it open to the petitioner to avail the statutory remedy of an appeal under Section 129-A of the Act, the Writ Petition fails and is, accordingly, dismissed.

Pending miscellaneous petitions, if any, in this Writ Petition shall stand dismissed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

M.SATYANARAYANA MURTHY, J.

Date: 26th November, 2015.

JSK