

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Writ Petition No.35933 of 2015

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

The proceedings dated 26.10.2015, issued by the 1st respondent for encashment of bank guarantee dated 11.02.2013 for Rs.15,40,436/-, is questioned in this writ petition as arbitrary and illegal, and a consequential direction is sought to the 1st respondent not to take any coercive steps during the pendency of the appeal before the CESTAT, Bangalore.

When the matter came up on 06.11.2015, this court expressed its *prima facie* opinion that the proceedings dated 26.10.2015, enforcing the bank guarantee given by the petitioner earlier, was contrary to the amended Section 129-E of the Customs Act r/w CBEC Circular No.984 dated 16.09.2015, which required the Department not to take any coercive steps for recovery of the disputed duty during the pendency of the appeal.

It is wholly unnecessary for us to delve on this aspect any further, as the respondents, in their counter affidavit, have stated that the letter dated 26.10.2015, issued by the 1st respondent to the bank authorities for enforcement of the bank guarantee, was withdrawn on 06.11.2015 in view of the appeal filed by the petitioner before CESTAT, Bangalore after payment of the required pre-deposit.

As the letter dated 26.10.2015 has been withdrawn by the 1st respondent on 06.11.2015, the cause in the writ petition does not survive necessitating adjudication by this Court.

The writ petition has become infructuous and is, accordingly, dismissed. The Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SEETHARAMA MURTI, J

Date:20.11.2015.

JSU

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