HON'BLE SRI JUSTICE G.CHANDRAIAH

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HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No. 23081 of 2015

DATE: 29.09.2015

Between:

M/s. Continental Hospitals Ltd.
and another .. Petitioners

And

Union of India
and four others .. Respondents

O R D E R:- (per Hon'ble Sri Justice Challa Kodanda Ram)

This writ petition is filed for the following substantial relief:

> "…to issue a writ, order or direction, more particularly in the nature of writ of mandamus or any other appropriate writ declaring the Speaking Order in No.61/2013-Adjn., dated 07.10.2013 and the order of attachment of goods dated 09.10.2014 passed by the 4th respondent and the letter dated 23.06.2015 issued by the respondent No.5 for recovery of an amount of Rs.18,09,041/- (Customs Duty of Rs.12,69,580/- Plus interest amount of Rs.4,89,532/-) and a penalty of Rs.50,000/- as illegal, unconstitutional, without the authority of law and violation of principles of natural justice and consequently set aside the Speaking Order dated 07.10.2013 and the order of attachment of goods dated 09.10.2014 passed by the 4th respondent and the letter dated 23.06.2015 issued by the respondent No.5 and to direct the 4th and 5th respondents to release the bonded goods without demanding payment of duty, interest and penalty."

The matter underwent several adjournments. At the hearing, this Court, *prima facie* has found that the warehousing of the imported goods and subsequent orders passed after expiry of the period of warehousing are different and independent from the consideration of the case of the petitioners for clearance of the imported goods under Export Promotion Capital Goods (EPCG). In that context, this Court, after noticing the Communication dated 26.05.2015 received by the petitioners from the

Commissioner whereunder it is stated that the petitioners may approach Customs Commissioner, Hyderabad by making a representation, adjourned the matter so as to enable the learned counsel for the petitioners as well as the learned Standing Counsel for Customs and Excise for getting instructions.

Today, when the matter is taken up for hearing, the learned counsel for the petitioners has placed on record a letter dated 23.09.2015, which according to them, is a comprehensive representation setting out the case of the petitioners. The representation has been made to the Principal Commissionerate of Customs, Basheerbagh, Hyderabad. In the light of the above representation, at this stage, we do not feel it necessary to adjudicate the matter on merits. However, considering the fact that hospital equipment has been imported in the year 2013 and they are lying in the go-down, we deem it appropriate to dispose of the writ petition with the following direction:

> "The 2nd respondent - Commissioner of Customs, Central Excise and Sales Tax is directed to consider the representation dated 23.09.2015 said to have been made by the petitioners and pass appropriate orders thereon in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Inasmuch as we are not expressing any opinion on the merits of the case, liberty is given to the petitioners to exercise their rights in accordance with law if they are otherwise aggrieved".

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel to disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

29.09.2015

CHALLA KODANDA RAM,J

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