

IN THE HIGH COURT OF JUDICATURE AT MADRAS

11.11.2016

CORAM:

THE HON'BLE MR.JUSTICE NOOTY RAMAMOHANA RAO

&

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.2887 of 2014 &
W.P.No.3565 of 2014

M/s.3M India Ltd.,
represented by its Authorised Signatory
Mr.M.S.Swaminathan,
Concorde Block,UB City,
24, Vittal Malliya Road,
Bangalore 560 001.

... Petitioner in both the
writ petitions

Versus

1. The Commissioner of Customs, (Sea Imports),
Customs House,
No.6, Rajaji Salai,
Chennai 600 001.

... Respondents in WP.No.
2887/14 and Respondents 1 and 2 in
WP No.3565/14

2. Deputy Commissioner of Customs,
Special Valuation Branch,
Customs House,
No.6, Rajaji Salai,
Chennai 600 001.

3. Deputy Commissioner of customs
Spl Valuation Branch,
Air cargo complex, Bangalore
International Airport,
Bengaluru Airport 560 300.

...3rd Respondents
in WP.NO.3565/14

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of Writs of Mandamus
directing the 2nd respondents and their counterpart in the
country to comply with the terms of Special Valuation Branch

(SVB) order vide Order-in-Original No.14432/2011 dated 4.2.2011 passed by the Deputy Commissioner of Customs (Special Valuation Branch) as affirmed by the Commissioner (Appeals) vide Order-in-Appeal C.No.1209/2013 dated 30.08.2013 pending the disposal of the Appeal claimed to have been filed by Respondent No. 1 before CESTAT, Chennai against the order of Commissioner (Appeals) dated 30.8.2013, for the purpose of valuation of the goods to be imported by the Petitioner.(WP.NO.2887/14) and directing the 2nd respondent to transfer the Special(SVB)file of the petitioner to the 3rd respondent and to issue directions to the 3rd respondent to finalize the SVB order in line with the order in original no.14432/2011 dated 04/02/2011 as upheld by the order in appeal c.No.1209/2013 dated 30/08/2013(WP.No.3565/2013)respectively.

For Appellant : Mr. C.Saravanan in both the petitions

For Respondent : Mrs. Hemalatha in both the petitions

C O M M O N O R D E R

(Judgment of the Court was delivered by NOOTY RAMAMOHANA RAO, J.)

Both sides agree that along with the Writ Petition No.16695 of 2016, W.P.No.2887 of 2014 and W.P.No.3565 of 2014 shall also be heard and considered.

Hence, we conceded to the request and accordingly we called for the files relating to W.P.Nos.2887 of 2014 and 3565 of 2015 and heard those cases. We have noticed the following:

2. W.P.No.2887 of 2014:

(i) This Writ Petition is instituted seeking a Writ of Mandamus for directing the 2nd respondent to comply with the terms of the order passed by the Special Valuation Branch (SVB) in order in original No.14432/2011 dated 4.2.2011 passed by the Deputy Commissioner of Customs (Special Valuation Branch), Chennai as affirmed by the Commissioner (Appeals) vide Order-in- Appeal C.No.1209/2013 dated 30th August 2013.

(ii). It is to be noticed that the Commissioner of Customs, Bangalore has preferred an appeal bearing No.C/S/42377/2030 and C/4244422/2013 before Customs Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, calling in question the correctness of the order passed by the Commissioner(Appeals) dated 30th August 2013, referred to supra by us. That appeal has

been decided by the aforementioned tribunal by its order dated 8th March 2016, allowing the appeal and remanding the matter to the original authority with a direction to examine the issue afresh in the light of the findings contained therein in the said order. It is also to be noticed that the tribunal has also set aside the order in original dated 4.2.2011.

(iii) In view of the order dated 8th March 2016 passed by the Tribunal setting aside the order in original dated 4.2.2011 as well as the appellate order dated 30.8.2013, the cause in this Writ Petition does not survive for any further adjudication.

3. W.P.No.3565 of 2014:

(i) This Writ Petition is instituted seeking a direction to the 2nd respondent to transfer the Special Valuation Branch (SVB) file of the Writ Petitioner to the 3rd respondent and to issue directions to finalise the SVB order in line with the order in original No.14432/2011, dated 4.2.2011 as upheld by the Commissioner of Appeals in Appeal C.No.1209/2013 dated 30.8.2013.

(ii) In view of this development that has been taken place on 8th March 2016, the relief sought for in this Writ Petition cannot be granted in this state of circumstances and hence this Writ petition is dismissed.

(iii). Further we hasten to add that should any subsequent development warrant, the relief prayed for in this writ petition can be re-agitated by instituting appropriate legal proceedings at any future point of time, without any regard for disposal of this Writ Petition.

4. However, it is brought to our notice by the learned counsel for the Writ Petitioner that by virtue of an interlocutory order dated 7th April 2014, passed in M.P.No.1 of 2014 in W.P.No.2887 of 2014, Bank Guarantee in a sum of Rs.10 crores in favour of the Department was furnished and the Writ Petitioner was directed to keep the Bank Guarantee alive till the disposal of the Writ Petition. In view of the above interlocutory order dated 7.4.2014, passed by this Court, all we need to direct the Writ Petitioner was to ensure that the unconditional and unqualified Bank Guarantee drawn in a sum of Rs.10 crores favouring the Department shall be kept alive and renewed from time to time, till such time appropriate orders are passed pursuant to the orders of the tribunal dated 8.3.2016 or subject to the result of the Writ Petition No.16695 of 2016. In the aforementioned terms W.P.No.2887 of 2014 and W.P.No.3565 of

2014 stand disposed of. No costs. Consequently, the connected M.P.No.1 of 2014 in W.P.No.3565 of 2014 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr
To

1. The Commissioner of Customs, (Sea Imports),
Customs House,
No.6, Rajaji Salai,
Chennai 600 001.
2. Deputy Commissioner of Customs,
Special Valuation Branch,
Customs House,
No.6, Rajaji Salai,
Chennai 600 001.
3. Deputy Commissioner of customs
Spl Valuation Branch,
Air Cargo Complex, Bangalore International Airport
Devanahalli, Bengaluru 560 300.

+1cc to Mr.C.Saravanan, Advocate, S.R.No.65401

VGI(CO)
BB(29/12/2016)

W.P.No.2887 of 2014 &
W.P.No.3565 of 2014

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