

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.Nos.2971 and 2972 of 2015
and M.P.Nos.1 and 2 of 2015

Reliance Infrastructure Limited,
"H" Block, 1st Dhirubhai Ambani Knowledge City,
Navi Mumbai,
Maharashtra 400 710

... Petitioner in both the writ petitions

vs

The Commissioner of Customs,
Custom House,
No.60, Rajaji Salai,
Chennai -1

.... Respondent in both the writ petitions

W.P.No.2971 of 2015: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records pertaining to order-in-original No.33738/2015 dated 29.12.2014, passed by the respondent and to quash the same.

W.P.No.2972/2015: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus restraining the respondent from taking any action in respect of imports by the petitioner under EPCG authorisation Nos.0330029636 dated 01.06.11 and 0330029874 dated 30.01.11, until completion of the respective export obligation periods (including extended period, if any).

For Petitioner
in both WPS. : Mr.AR.L. Sundaresan
Senior Counsel for
Mr.R. Raghavan

For Respondent
in both WPS. : Mr.V. Sundareswaran
Standing Counsel

COMMON ORDER

W.P.No.2971 of 2015 has been filed by the petitioner to issue a Writ of Certiorari to call for the records pertaining to order-in-original No.33738/2015 dated 29.12.2014, passed by the respondent and to quash the same.

2. W.P.No.2972 of 2015 has been filed by the petitioner to issue a Writ of Mandamus forbearing the respondent from taking any action in respect of imports by the petitioner under EPCG authorisation Nos.0330029636 dated 01.06.11 and 0330029874 dated 30.01.11, until completion of the respective export obligation periods (including extended period, if any).

3. When the matters are taken up for hearing, it was brought to the notice of this Court by Mr.AR.L. Sundaresan, learned Senior Counsel, appearing for the petitioner, that the petitioner had filed an appeal in C/40723/2015-DB against the original order No.33738/2015 dated 29.12.2014 before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). Since the petitioner had already challenged the order before the CESTAT, I am of the view that the petitioner cannot prosecute the writ petitions for the reason that the order has already been under challenge before the CESTAT.

4. In view of the submissions made by the learned Senior Counsel, appearing for the petitioner, I am of the view that instead of entertaining the present writ petitions, it would be suffice to direct the Customs, Excise and Service Tax Appellate Tribunal to dispose of the appeal, filed by the petitioner within a time frame.

5. The learned counsel for the petitioner submitted that since there is no Division Bench, available before the Customs, Excise and Service Tax Appellate Tribunal, a direction may be given to CESTAT to entertain the application, to be filed by the petitioner, for transferring the appeal to some other Bench.

6. Mr.V. Sundareswaran, learned Standing Counsel, appearing for the respondent, submitted that such a direction can be given to CESTAT for the disposal of the appeal, filed by the petitioner and also a direction can be given to the CESTAT to entertain the application, to be filed by the petitioner, for transferring the appeal to some other Bench.

7. Having regard to the submissions made by the learned counsel on either side, without expressing any opinion with regard to the merits of the case, I direct the Customs, Excise and Service Tax Appellate Tribunal, Chennai to entertain the application, to be filed by the petitioner, for transferring of the appeal in No.C/40723/15-DB to some other Bench, where, Presiding Officers are available, and also direct the Customs,

Excise and Service Tax Appellate Tribunal, Chennai to dispose of the said appeal within a period of eight weeks from the date of receipt of a copy of this order. It is open to the petitioner to raise all the contentions before the Customs, Excise and Service Tax Appellate Tribunal. With these observations, both the writ petitions are disposed of. No costs. Consequently, connected Mps are closed.

sr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Commissioner of Customs,
Custom House,
No.60, Rajaji Salai,
Chennai -1.

COPY TO:- The Customs Excise and Service Tax
Appellate Tribunal, Chennai.

+ 1 cc to Mr.Mr.V. Sundareswaran, Advocate Sr 26392
+ 2 CCs to Mr.R.Raghavan, Advocate SR NO 26268[1/6/16]

KR/28/4/16

WP.Nos.2971 & 2972 of 2015

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