

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM:

THE HON'BLE MR.JUSTICE NOOTY RAMAMOHANA RAO
&
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

WRIT APPEAL NO.1243 OF 2016 &
C.M.P.No.16065 of 2016

1. The Commissioner of Customs - IV,
Custom House,
No.60, Rajaji Salai, Chennai 600 001.
 2. The Additional Commissioner of Customs,
SIIB, Custom House,
No.60, Rajaji Salai, Chennai 600 001.
 3. The Assistant Commissioner of Customs,
Group-7H, Customs House,
No.60, Rajaji Salai, Chennai 600 001.
- Appellants

Versus

M/s.Green Line,
represented by its Partner
Mr.S.Mohamed Kalith,
New No.222, Old No.93,
First Floor,
Rangarajapuram Main Road,
Chennai 600 024.

.... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act against the order passed by the learned Single Judge in W.P.No.18713 of 2016 dated 22.6.2016.

Petition filed under Article 226 of the Constitution of India Praying for the issuance of a writ of mandamus, directing the respondents herein to release the goods viz. 890 Cartons of Sony Car Speaker, Sony Car Subwoofer, JVC Car Speaker, pioneer car speaker, Subwoofer, Amplifier Metal Cabinet fitted with PCB & CDM and Remote and Wire for Car Stereo and Gift Boxes imported vide Bill of Entry No.4497899 dated 08.03.2016 on the value declared by the petitioner at USD 21083.35 totally which was finally assessed by the Proper Officer under the Customs Act.

For Appellant : Dr.S. Seethalakshmi

For Respondent : Mr. A.K.Jayaraj

J U D G M E N T

(Judgment of the Court was delivered by Nooty Ramamohana Rao, J.)

This is an appeal preferred under Clause 15 of the Letter Patent against the order passed by the learned Single Judge, disposing of the Writ Petition instituted by the respondent, subject to certain directions contained in paragraph 8 of the order under appeal. In view of the order which we have proposed to pass now, the necessity to refer in great detail to the fact situation is obviated.

2. The undisputed facts are:

- (i) The writ petitioner represented by Sri.S.Mohamed Kalith, filed the import manifest. However Sri.S.Mohamed Kalith has claimed himself to be a partner of the firm to whom the import export code number (IEC) was granted by the Director General of Foreign Trade. The apprehension of the department is that as per the information available on the website of Director General of Foreign Trade, IEC code holder was a proprietary concern, but not a partnership firm, for Sri S.Mohamed Kalith, to claim to be its partner;
- (ii) The person who is known to be the proprietor of the said firm is at large.
- (iii) The department has assessed the goods to duty payable in a sum of Rs.22.72 lakhs, whereas, the party has assessed the duty payable at a mere 4.5 lakhs.
- (iv) Learned Single Judge, apart from directing the writ petitioner to make the payment of duty as assessed by it, also directed 50% to be paid of the differential duty. In other words, the differential duty payable would still be in the order of around 9 lakhs.

3. Therefore, with a view to protect the interest of the department, all we need to add is that the person who is seeking release/interim custody of the goods, shall also produce the address proof and identity proof, so that notice of adjudication proceedings can also be delivered at the said address, with liberty to participate. Excepting this modification, we do not see the order passed by the learned Single Judge requiring any further modification. Accordingly, the Writ Appeal stands disposed of. No costs. Consequently, the connected C.M.P.No.16065 of 2016 is closed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

1.The Commissioner of Customs - IV,
Custom House,
No.60, Rajaji Salai, Chennai 600 001.

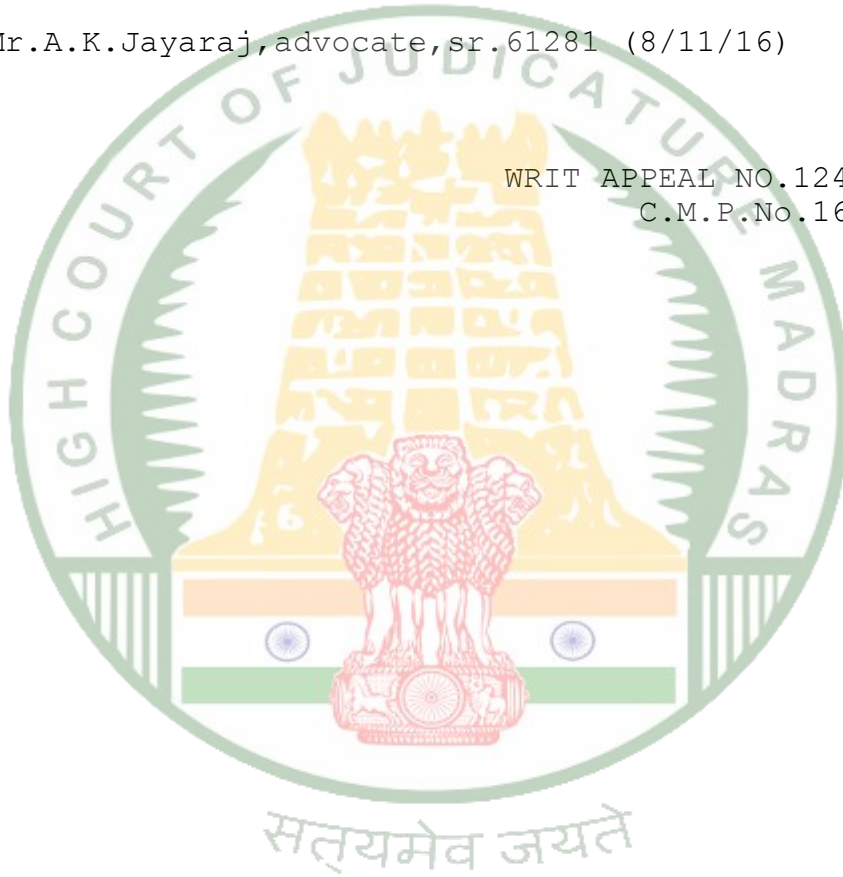
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+1 cc to Mr.A.K.Jayaraj,advocate,sr.61281 (8/11/16)

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