

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM

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

Writ Appeal No.1282 of 2016
and C.M.P.No. 16610 of 2016

1. The Commissioner of Customs
(Group 7H), Customs House,
No.60, Rajaji Salai,
Chennai - 600 001.
2. The Joint/Additional Commissioner
of Customs (Group 7H),
Customs House,
No.60, Rajaji Salai, Chennai - 600 001.
3. The Deputy Commissioner of
Customs (S11B), Customs House,
No.60, Rajaji Salai, Chennai - 600 001. Appellants

Vs.

M/s. Durga Trade Link,
rep. by its Proprietor-
Mr.Dinesh Kumar,
No.27, Strotten Muthiya Mudali
Street, 3rd Floor, Sowcarpet,
Chennai - 600 079. Respondent/Petitioner

Writ Appeal filed under Under Clause 15 of the Letters
Patent, against the order of the learned single Judge made in
W.P.No.28306 of 2016, dated 29.08.2016.

WP.NO.28306 of 2016:directing the respondents herein to release
the goods viz. 179 Cartons of Glass Beads 16 Bundles of Small
Garments 102 Cartons of Toy Baby Chair 59 Cartons of Toy Ball
and 50 Cartons of Broom Sticks imported vide Bill of Entry of
4914937 dt 15.4.2016 after collecting appropriate duty for the
total quantity of the goods except 222 cartons of Cotton Shoes.

For Appellants : Mr.S.Rajasekar,
Standing Counsel.

For Respondent : Mr.A.K.Jayaraj
Standing Counsel

JUDGMENT

(DELIVERED BY NOOTY.RAMAMOHANA RAO, J.)

We have heard Shri S.Rajasekar, learned Standing Counsel for the Appellants and Shri A.K.Jayaraj, learned counsel for the respondent.

2. This in house Appeal under Clause 15 of the Letters Patent is directed against the order rendered by the learned single Judge in W.P.No.28306 of 2016 read with W.M.P.No.24406 of 2016. The operative portion of the order passed by the learned single Judge is found in para 5, which reads as under:-

"5. So far as Serial Nos. 3, 7, 8 & 9, since objections have been raised by M/s. Nike International Limited and M/s. Adidas A.G. New Delhi, the petitioner has sought for re-export of the said items. Therefore, the writ petition in so far as it relates to Serial Nos. 3, 7, 8 & 9 stands dismissed. With regard to the other items viz., Serial Nos. 1, 2, 4, 5 & 6, the respondents are directed to assess the same to duty and intimate the petitioner since it is stated that similar products imported by the other importers have already been examined and value has been fixed and clearance have been effected. The above direction shall be complied with, within a period of two weeks from the date of receipt of a copy of this order."

3. An issue is sought to be now made before us by the appellant that by using the expression "assess the same to duty," the learned single Judge has not left any discretion for the Assessing Officers to act strictly in accordance with law and the writ petitioner is likely to create further hurdles when the Department acts in accordance with law, in view of the aforementioned observations found in the order under appeal.

4. We are of the opinion that the apprehension entertained by the Department is not well founded. The order under appeal, for that matter that of any court, would ever prevent a party to act strictly in accordance with law. We are, therefore, of the

opinion that the order under appeal passed by the learned single Judge has merely left the issue to be adjudged by the Department, to act strictly in accordance with law but not otherwise. Hence, the order under appeal does not require any interference at our hands, except clarifying that it is entirely open for the Department to act in accordance with law. Accordingly, the writ appeal stands disposed of. No costs. Connected CMP is closed.

-s/d-
Assistant Registrar

True copy

Sub-Assistant Registrar

gr.

To

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No.60, Rajaji Salai, Chennai - 600 001.

+1 cc to Mr.A.K.Jayaraj Advocate sr 68957
+1 cc t Mr.S.Rajasekar Advocate sr 68947

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