IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3711 of 2017

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1. Doosan Infracore India Pvt. Ltd., a company registered under the Companies Act, 1956 having its registered address at 3rd Floor, TNPL Building, No. 67, Mount Road, Guindy Chennai - 600032, India, represented by its Authorized Signatory Mr. N.Krishna Kumar, General Manager - Finance and Accounts, S/o Navaneethan, R/o 3/9, Andavar Nagar, 5th Street, Police Station R 2, Kodambakkam, Chennai 600024.

.... Petitioner/s

Versus

1. The Union of India through the Chief Commissioner Customs, Patna Zone, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna.
2. The Chief Commissioner Customs, Patna Zone, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna.
3. The Superintendent of Customs, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna.
4. The Commissioner of Customs, Patna Zone, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna.
5. The Additional Commissioner of Customs (Preventive), Central Revenue Building, Birchand Patel Path, Patna.
6. The Superintendent (Drawback) of Land, Customs Station, Raxaul, Bihar.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3819 of 2017

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1. Doosan Infracore Construction Equipment India Pvt. Ltd. Pvt. Ltd., a Company registered under the Companies Act 2013, having its registered Address 2nd Floor, SKCL - Central Square - II, Thiru - Vi - Ka Industrial Estate, Guindy, Chennai Represented by its Director Ki Bong Nam, S/o Won Woo Nam, R/o A 1004, Tower C the Crest Towers X Floor 142 Velachery, Main Road, Chennai

.... Petitioner/s

Versus

1. The Union of India, through the Chief Commissioner Customs, Patna Zone, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna
2. The Chief Commissioner Customs, Patna Zone, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna
3. The Superintendent of Customs, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna
4. The Commissioner of Customs, Patna Zone, 4th Floor, Central Revenue Building, Birchand Patel Path, Patna
5. The Additional Commissioner of Customs (Preventive), Central Revenue

Building, Birchand Patel Path, Patna

6. The Superintendent (Drawback) of Land, Customs Station, Raxual, Bihar

.... Respondent/s

Appearance :

(In CWJC Nos.3711 and 3819 of 2017)

For the Petitioner/s : Mr. Vikram Ramakrishnan, Advocate
Ms. Aishwarya Riti, Advocate

For the Respondent/s : Mr. Satya PrakashTripathy (Sr. SC, Customs)
Mr. Satya Vrat, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 31-07-2017

Having heard learned counsel for the parties, we find that against the impugned order passed, statutory remedy of appeal under Section 128 of the Customs Act, 1962 is available and, therefore, it is not appropriate for us to interfere into the matter. Even though learned counsel representing the appellant vehemently argued that the order in question has been passed by the Superintendent, whereas under law it is only the Assistant Commissioner who is authorized to pass the order, the respondents have categorically stated in the counter affidavit that the order was passed under the directions and with the approval of the Assistant Commissioner and the Superintendent had only conveyed the order of the Assistant Commissioner.

That being so, we are not inclined to exercise our extra ordinary jurisdiction under Article 226 of the Constitution when statutory remedy of appeal, as indicated hereinabove, is available to the petitioner. That apart, so far as granting liberty to the petitioner to file an appeal and condoning the delay is concerned, it is the case of the petitioner that after the impugned orders were passed by the authorities on 25.7.2015 and 24.9.2015, petitioners had sought amendment of the bill of export vide Annexure 5 in January, 2016. When no decision was taken on this, he filed the writ petition in the year 2017.

If that be the case of the petitioners, the petitioners can always highlight these facts before the appellate authority and seek condonation of delay and we are hopeful that the appellate authority shall consider these grounds and proceed to take decision in accordance with law on the prayer for condonation of delay.

With the aforesaid, these writ applications are disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	5.8.2017
Transmission Date	N/A