

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7269 of 2017

M/s.Texpert,
Rep by Authorised Signatory
Mr.S.V.Petha Perumal,
S/o.Ar.Sevugan Chettair,
Super B-3, Industrial Estate, K.Pudur,
Madurai - 625 007. ...Petitioner

Vs.

- 1.The Commissioner of Customs,
Chennai IV Commissionerate,
Customs House, Rajaji Salai,
Chennai - 600 001.
2. The Commissioner of Customs,
(Appeals),
Customs House, Rajaji Salai,
Chennai - 600 001.
3. The Assistant Commissioner of Customs,
(DEPB/7H), Chennai IV Commissionerate,
Customs House, Rajaji Salai,
Chennai - 600 001. ...Respondents

Prayer: This writ petition is filed under Article 226 of the Constitution of India, to issue an order, direction writ more in the nature of WRIT OF MANDAMUS directing the respondents to release items covered under Bill of Entry No.BE No./Dt/cc/Typ:7696971/03/12/2016/N/H with specific condition.

For Petitioner : Mr.Mohana Murali
For M/s.K.G.Ragunath
For Respondents : Mr.T.Pramod Kumar Chopda
Standing Counsel (IT)

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

2. The petitioner seeks for a mandamus directing the respondents to release the items covered under Bill of Entry No.BE No./Dt/cc/Typ:7696971/03/12/2016/N/H.

3. It is seen that in respect of the very same Bill of Entry, an order in original dated 03.01.2017 was passed by the Adjudicating Authority rejecting the declared value self assessed by the Importer/petitioner in respect of the subject Bill of Entry and to re-assess the subject goods on the enhanced unit price value. Challenging such order in original, the petitioner preferred an appeal before the First Appellate Authority, who in turn by an order dated 14.02.2017 rejected the same.

4. Aggrieved against the concurrent views expressed by the Original Authority and the First Appellate Authority, the petitioner preferred further appeal before the CESTAT and it is stated that the said appeal is yet to be numbered. In the mean time the petitioner seeks for release of the goods by filing the present writ petition.

5. I do not think that the petitioner can seek indulgence of this Court by filing the present writ petition, more particularly, when he has chosen to file an appeal before the CESTAT, challenging the concurrent findings of the authority, as stated supra and the said appeal is also yet to be numbered.

6. Therefore, it is for the petitioner to work out his remedy before the CESTAT in the appeal including by seeking for an interim relief, if such relief is maintainable. Without doing so, the petitioner is not justified in approaching this Court.

7. Therefore, I am inclined not to entertain this writ petition not on the merits of the matter, but on the reason that the petitioner has to work out such remedy only before the CESTAT where he has already filed an appeal.

8. Accordingly, this writ petition is disposed of, by granting liberty to the petitioner to file an appropriate application seeking for interim relief and if any such application is filed, the same shall be considered and order shall be passed on its own merits and in accordance with Law. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

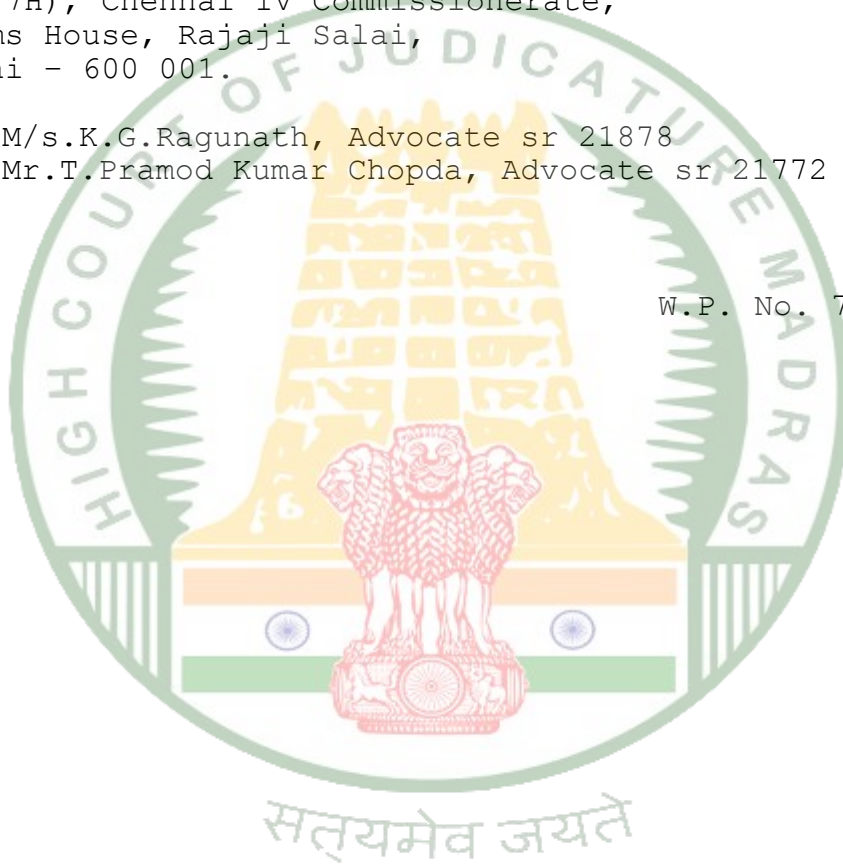
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+1 CC to M/s.K.G.Ragunath, Advocate sr 21878

+1 CC to Mr.T.Pramod Kumar Chopda, Advocate sr 21772

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