IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.2.2017

C O R A M

THE HON'BLE MR.**HULUVADI G. RAMESH, ACTING CHIEF JUSTICE**
AND
THE HON'BLE Dr. **JUSTICE ANITA SUMANTH**

Civil Miscellaneous Appeal No.2056 of 2016
and
C.M.P.No.15023 of 2016

Green Channel Interport Pvt. Ltd.,
No.71(31) Room No.221,
2nd Floor, Thambu Chetty Street,
Chennai 600 001. Appellant

vs

1. The Commissioner of Custom
(Seaport-Export),
60, Rajaji Salai, Custom House,
Chennai 600 001.

2. The Customs, Excise and Service Tax
Appellate Tribunal,
No.26, Sashtri Bhavan Annexe Building,
Haddows Road, Chennai 600 006. Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 130 of the Customs Act, 1962, against the Final Order No.40439 of 2016 dated 9.3.2016 on the file of the CESTAT, Chennai.

For Appellant : Mr.G.Derrick Sam

For R1 : Mr.V.Sundareswaran

J U D G M E N T

(Judgment of the Court was delivered by Dr.Anita Sumanth, J.,)

This civil miscellaneous appeal is filed challenging the order of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) dated 9.3.2016, remanding the matter to the file of the adjudicating authority for re-adjudication and for rendering an independent finding after affording proper opportunity to the assessee.

2. The thrust of the appeal is on the basis that the CESTAT exceeded its jurisdiction in remanding the issue of levy of penalty for re-adjudication. The learned counsel for the appellant would state that the CESTAT, having found that the assessing authority had not justified the levy of penalty, ought not to have remanded the matter, but, quashed it in full. We do not agree.

3. The order in original dated 29.11.2013 touches upon the issue of penalty in terms of Section 114 of the Customs Act, 1962 and makes reference to the Customs House Agents Licensing Regulation, 2004 (CHALR) as well. In appeal by the assessee before the CESTAT, the Tribunal was of the view that the adjudicating authroity ought to have justified the levy by way of a reasoned and independent finding, considering that the authority levying penalty under the Customs Act and

the CHALR were different. We find no infirmity in the order of the CESTAT. The original authority viz., Commissioner of Customs shall adjudicate the matter de novo, after affording appropriate opportunity to the assesee. The civil miscellaneous appeal is dismissed. No costs. The connected miscellaneous petition is closed.

(H.G.R.,ACJ) (A.S.M.,J)
21.2.2017.

Index: Yes / no
Internet: Yes/no
ssk.

To

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HULUVADI G. RAMESH, ACJ.,
AND
DR.ANITA SUMANTH, J.,

ssk.

C.M.A.No.2056 of 2016

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