IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.06.2017

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.2714 of 2017

Narayan Jain ...Petitioner

Vs

The Commissioner of Customs,
Appeals-II,
Office of the Commissioner of Customs,
No.60, Rajaji Salai,
Custom House,
Chennai - 600 001. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarifield Mandamus to call for the records of the impugned order dated 31.10.2016 passed by the respondent made in Appeal C.Cus.II.No.1061/2016 and quash the same and consequently direct the respondent to pay the balance amount of Rs.4,36,676/- along with interest at the rate of 12% from the date of order of the Additional Commissioner of Customs i.e., on 19.04.2003.

For petitioner ... Mr.S.Senthilkumar

For respondent ... Mr. Syed Nurullah Sheriff
Senior Panel Counsel

O R D E R

The petitioner is aggrieved against the order of the respondent dated 31.10.2016 which is nothing but an Order in Appeal arising out of an Order-in-Original passed by the Adjudicating Authority dated 25.02.2016 rejecting the refund claim of the petitioner.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

3. Admittedly, as against the order passed by the respondent as the First Appellate Authority, further statutory Appeal lies before the Customs, Excise and Service Tax Appellate Tribunal(CESTAT) under Section 129-A of the Customs Act,1962. The petitioner is not questioning the jurisdiction of the Adjudicating Authority and on the other hand, he challenged the order passed by the Adjudicating Authority before the Appellate Authority, namely, the respondent herein, who in turn, rejected the Appeal by considering the facts and circumstances of the case. When that being the position, I do not think that the petitioner can approach this Court and file a Writ Petition without exhausting the other alternative statutory remedy of appeal before CESTAT. Therefore, without expressing any view on the merits of the matter, this writ petition is disposed of with liberty to the petitioner to file an Appeal before the Customs, Excise and Service Tax Appellate Tribunal within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

The Commissioner of Customs,
Appeals-II,
Office of the Commissioner of Customs,
No.60, Rajaji Salai,
Custom House,
Chennai - 600 001.

+1 CC to Ms. Star Associates, sr 39452
+1 CC to Mr.G.M. Syed Nurullah Sheriff, sr 39893

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