

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2017

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

W.P. No.36054 of 2004

&

W.M.P.No.43380 of 2004

1. M/s. Fayyax Binding Works rep. by its Proprietor Mr. Mohd. Ilyas Qureshi
 2. M/s. Printrade Issues (I) P.Ltd. Rep. by its Director Mr. Mohd. Ilyas Qureshi.
 3. Mr. Mohd. Ilyas Qureshi
 4. Mr. Baban Shrikishan Tiwari
- ...Petitioners

Vs.

The Commissioner of Customs (Appeal)
Custom House, Chennai-600 001.Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ Certiorari Mandamus, to calling for the records of the respondent relating to the order No.F.No.C3/391, 398, 444, 445/0/2004-SEA, dated 03.11.2004, and quashing the same and directing the respondent to entertain the appeal without deposit of the penalty levied.

For Petitioners : M/s. Rugan and Arya

For Respondent : Mr. G.M. Syed Nurullah Sherieff,
Senior Standing Counsel

O R D E R

Heard M/s. Rugan and Arya, the learned counsel appearing for the petitioners and Mr. G.M. Syed Nurullah Sherieff, the learned Standing Counsel for the respondent.

2. The petitioner has filed this Writ Petition, challenging the interim order passed by the Commissioner of

Customs (Appeals) under Section 129 (E) of the Customs Act, 1962, dated 03.11.2004, by which, the appellants, which includes the petitioner, were severally directed to deposit a sum of Rs.1,00,000/-, each under the Order-in-Original No.1919 of 2004, dated 08.04.2004.

3. At the time, when the Writ Petition was admitted, i.e., on 08.12.2004, interim stay was granted, on condition that the petitioners deposit 50% of the amount, as ordered by the Commissioner of Customs (Appeals). The learned counsel appearing for the petitioners has submitted that the conditional order has been complied with by the petitioners. In the light of the same, this Court is inclined to direct the respondent to take up the Appeal and decide its merit, and the deposit of 50% made by the petitioners would sufficiently safeguard the interest of the revenue.

4. In the result, this Writ Petition is disposed of. The deposit of 50% of the amounts, ordered by the respondent, in the impugned order, shall be taken as pre-deposit and the respondent is directed to hear and dispose of the Appeal on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sd

To

The Commissioner of Customs (Appeal)
Custom House, Chennai-600 001.

+1cc to M/s.G.M.Syed Nurullah Sheriff, Advocate, S.R.No.50531
+1cc to M/s.Rugan & Arya, Advocate, S.R.No.50680

W.P. No.36054 of 2004

RR(CO)
CU(11/08/2017)