

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.07.2017

Coram

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

Writ Petition No.16658 of 2004

M/s.Deer Cee Exports,
Rep. By its partner,
No.9-11, Stanes Road, 1st Street,
Tirupur - 641 602. ...Petitioner

Vs.

- 1.The Commissioner of Customs (Appeals),
Custom House,
Chennai - 600 001.
- 2.The Additional Commissioner of Customs,
Air Cargo Complex,
Chennai - 600 027.Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari Mandamus to call for records relating to the order passed by the first respondent in (C48/36/0/2002 Air) C.Cus.No.194/04 dated 25.03.2004 and set aside the same as arbitrary, unsustainable and illegal and further direct the first respondent to hear and dispose of the appeal of the petitioner in C48/36/0/2002 Air on merits by accepting the entire amount of pre-deposit of Rs.8,04,395/-.

For Petitioner : Mr.M.A.Mudimannan, for
Mr.K.Jayachandran

For Respondents : Mr.A.P.Srinavas
Senior Standing Counsel

O R D E R

Heard Mr.M.A.Mudimannan, the learned counsel for Mr.K.Jayachandran, the learned counsel for the petitioner and Mr.A.P.Srinavas, the learned Senior Standing Counsel for the respondents.

2. The petitioner is aggrieved by the order passed by the first respondent, dated 25.03.2004, rejecting their Appeal, as they failed to comply with the pre-deposit condition, within a time frame.

3. On going through the facts and circumstances of the case, it is seen that the petitioner was granted sufficient indulgence by the first respondent for depositing the amount, after they had failed, before this Court in challenging the order. The extension of time was sought for by the petitioner was also considered and time was extended till 10.03.2004. However, the petitioner did not deposit the amount within the said date, but only on 24.03.2004, one day prior to the passing of the impugned order, the amount was deposited.

4. Under normal circumstances, this Court will not grant any indulgence to such deposit on assessee, who are lethargic, and who did not adhere to the time frame fixed by the Authorities or by the Court of law. However, considering the case of the petitioner that they had deposited a sum of Rs.8,04,395/-, i.e., one day prior to the passing of the impugned order, this Court is inclined to grant one more indulgence to the petitioner to contest the matter on merits before the first respondent. Hence, for that reason alone, the this Court is inclined to allow this Writ Petition. Accordingly, the Writ Petition is allowed, and the impugned order is set aside, and the first respondent is directed to take note of the deposit effected by the petitioner before this Court on 24.03.2004, and take up the Appeal filed by the petitioner and decide the same on merits and in accordance with law. No costs.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

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

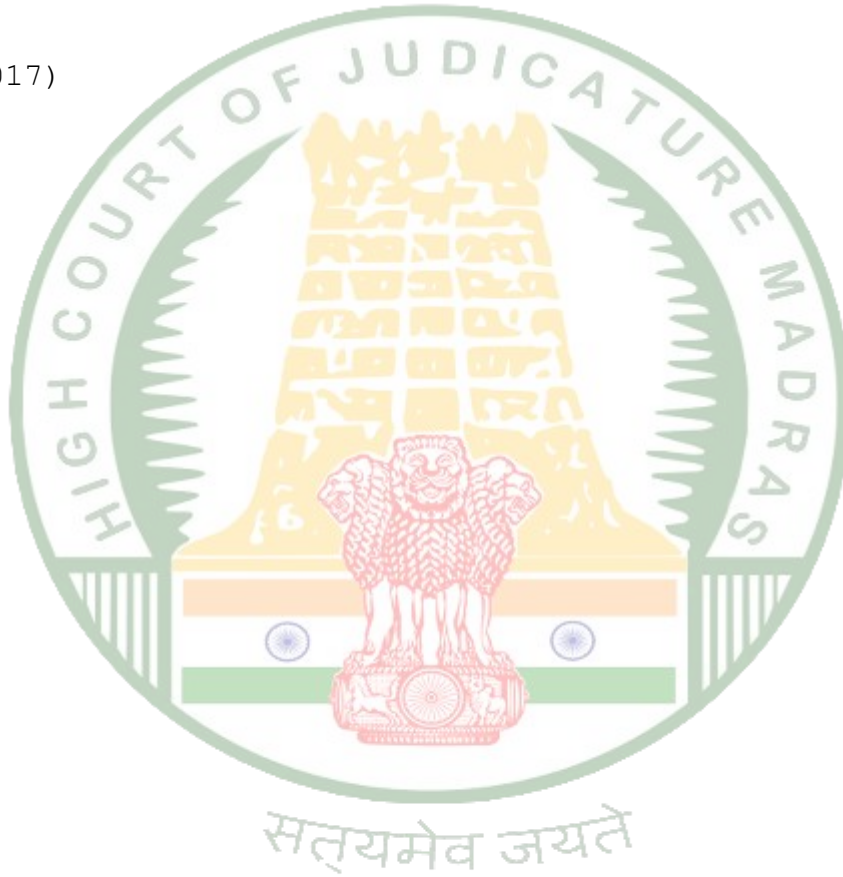
2.The Additional Commissioner of Customs,
Air Cargo Complex, Chennai - 600 027.

+1cc to Mr.A.P.Srinivas,Advocate sr.47538

+1cc to Mr.K.Jayachandran,Advocate sr.47569

Writ Petition No.16658 of 2004

rj(co)
ss(19/7/2017)



WEB COPY