

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

WRIT PETITION NO.16144 OF 2017

O R D E R

(Per Hon'ble Sri Justice Sanjay Kumar)

This writ petition was filed assailing the 'Notice of Demand to the Defaulter' dated 19.10.2016 issued by the Deputy Commissioner of Customs (Arrears Recovery Officer), Customs Preventive Division, Kakinada. This notice was issued consequent upon and in connection with the Order-in-Original No.4/2007 dated 31.12.2007 passed by the Commissioner of Customs and Central Excise, Guntur. This order is the subject matter of appeal before the Customs, Central Excise and Service Tax Appellate Tribunal, Bangalore, in Appeal No.553 of 2008 filed by the petitioner.

Earlier, the Tribunal considered the plea of the petitioner for interim relief pending disposal of the appeal and by stay order dated 11.02.2009, the Tribunal directed the revenue not to initiate any coercive measures for payment of penalty as per the order under appeal subject to pre-deposit of a sum of Rs.50,000/-. The 'Notice of Demand to the Defaulter' dated 19.10.2016 has now been issued by the revenue for recovery of other amounts due and payable by the petitioner consequent to the Order-in-Original dated 31.12.2007. As the Tribunal is already seized of the appeal arising out of the said Order-in-Original, we are of the opinion that it would be appropriate for the petitioner to approach the Tribunal for further interim relief as advised and in accordance with law.

Leaving it open to the petitioner to take suitable steps in this regard, the writ petition is dismissed. Needless to state, the Tribunal

shall consider any application filed by the petitioner on its own merits and in accordance with law uninfluenced by the dismissal of this writ petition. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

GUDISEVA SHYAM PRASAD, J

24th JULY, 2017

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