IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.1358 of 2018

1. The Commissioner of Customs,
(Seaport-Imports), Customs House,
No.60, Rajaji Salai,
Chennai - 600 001.

2. The Additional Commissioner of Customs (Gr.5A),
Customs House,
No.60, Rajaji Salai,
Chennai - 600 001. .. Appellants

versus

M/s.Balson Industries,
Rep. by its Partner Shyam Balaji. .. Respondent

Writ Appeal filed against the order dated 24.10.2007 in W.P.No.30639 of 2007.

W.P.30639/07Prayer: Petition filed Under article 226 of the Constitution of India Praying to a Writ Mandamus directing the respondents herein of release the goods viy: 164 units of old anlused photocopiers with accessories imported vide bill of entry No:496400 dated 02/07/2007 as per the practice prevailing in the chennai custom house and on the value declared by the petitioner at USD 37,570.00(CXF)totally.

For Appellants : Mr.A.P.Srinivas.

JUDGMENT

(Order of the Court was delivered by S.MANIKUMAR, J.)

Writ Appeal is directed against the order made in W.P.No.30639 of 2007 dated 24.10.2007, by which the writ Court, directed release of the goods forthwith, on payment of duty on the enhanced value and also directed the writ petitioner to deposit 35% of the enhanced value towards redemption fine and penalty.

2. On this day, when the matter came up for hearing, Mr.A.P.Srinivas, learned counsel for the appellants submitted that the issue is squarely covered against the revenue in the Commissioner of Customs (Seaport-Imports) Customs House No.60, Rajaji Salai, Chennai - 600 001 Vs. M/s.Anand Impex, 507/31, Jessore Road, Debendra Nagar, Dum Dum, Kolkata - 700 074, rep. by its Proprietor Tapan Kumar Saha [WA No.824 of 2012 etc batch dated 14.09.2015].

3. Heard the learned counsel for the appellants and perused the materials available on record.

4. Common judgment of the Hon'ble First Bench dated 14.09.2015, made in WA Nos.824 of 2012 etc batch in the matter of the Commissioner of Customs (Seaport-Imports) Customs House No.60, Rajaji Salai, Chennai - 600 001 Vs. M/s.Anand Impex, 507/31, Jessore Road, Debendra Nagar, Dum Dum, Kolkata - 700 074, rep. by its Proprietor Tapan Kumar Saha, is extracted hereunder:

> "We have heard the learned counsel for the parties.
>
> 2. It cannot be disputed by the learned counsel for the appellant/Department that the matter in issue is squarely covered by the judgment of a Division Bench of this Court in Commissioner of Customs, Tuticorin vs. City Office Equipment (2014 (302) ELT 212, which was decided on 14.03.2013. The submission of the learned counsel for the Department is that the said judgment has not correctly interpreted the judgments of the Hon'ble Supreme Court.
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> 3. On our query as to whether any Special Leave Petition was preferred against the same, learned counsel states that a Special Leave Petition has been preferred, but has still not been numbered. This is the position 2½ years after the judgment has been delivered!
>
> 4. We may also note that the learned counsel for the Department further seeks to rely upon the judgment of a Division Bench of this Court in Writ Appeal Nos. 2101 to 2103 of 2012 (DGFT vs. Nitin Traders), decided on 02.11.2012, which remanded the matter to the learned Single Judge, who disposed of the matters on 05.06.2013 (Shrishti Digital Solution v. Additional Commissioner of Customs, Chennai, reported in 2013 (298) ELT 197). On our query, it is stated that in respect of that judgment also, a writ

appeal has been filed, but that is still at SR stage (i.e. unnumbered) for 2½ years! All one can say, the Department is consistent in its actions and delays.

5. In the present appeals, we are concerned with the decision of the learned Single Judge, in terms whereof the goods have been released on payment of duty.

6. We have set out the aforesaid facts, though really speaking for disposal of the appeals, it is suffice to say that the matter being covered by the judgment of the Division Bench of this Court in Commissioner of Customs, Tuticorin vs. City Office Equipment (supra), these appeals are liable to be dismissed in terms of the said judgment. Ordered accordingly. No costs.

5. Decision in W.A.Nos.824 of 2012 etc batch, dated 14.09.2015, is squarely applicable to the facts of this case, and applying the same, there are no grounds to interfere with the order of the writ Court. Hence, the instant Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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1.The Commissioner of Customs,
(Seaport-Import),
Customs House,
60,Rajaji Salai,
Chennai-600001.

2. The Additional Commissioner of Customs,
Group5-A,Customs House,
60,Rajaji Salai,
Chennai-600001.

+1CC to Mr.A.P.Srinivas,Advocate,S.R.No.38478.

W.A.No.1358 of 2018

GMR(CO)
BM 27/07/2018