In the High Court of Judicature at Madras

Dated : 03.1.2018

Coram :

The Honourable Mr.Justice T.S.Sivagnanam

Writ Petition No.34243 of 2017

M/s.Sri Saravana Shipping Services (P) Ltd., rep.by its Managing Director Shri.T. Loganathan ...Petitioner

Vs.

The Commissioner of Customs, Chennai VIII Commissionerate, Custom House, No.60, Rajaji Salai, Chennai-1. ...Respondent

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to implement final order No.40595/2017 dated 04.4.2017 passed in Appeal No.C/41789/2015 of the Customs, Excise and Service Tax Appellate Tribunal, Chennai within a reasonable time frame.

For Petitioner : Mr.G.Derrick Sam
For Respondent : Mr.S.R.Sundar, SSC

ORDER

Mr.S.R.Sundar, the learned Senior Standing Counsel accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner seeks a direction to the respondent to implement the order passed by the Customs, Excise and Service Tax Appellate Tribunal dated 04.4.2017, by which, the appeal petition filed by the petitioner has been allowed and the order passed by the Commissioner of Customs revoking the petitioner's customs broker licence has been set aside.

3. The learned counsel for the petitioner submits that the Tribunal passed the order on 04.4.2017 and a copy of it was received and communicated to the respondent on 03.8.2017 requesting implementation and the same having not been done till date, the petitioner is before this Court. The learned counsel for the petitioner further submits that till date, no appeal has been filed by the Department as against the order of the

Tribunal and hence, a direction may be issued to the respondent to implement the order passed by the Tribunal and revoke the order suspending the petitioner's customs broker licence.

4. Admittedly, the limitation to file an appeal is yet to be over.

5. The learned Senior Standing Counsel for the respondent submits that the Department has time upto February 2018 for filing the appeal.

6. Therefore, in the interregnum, this Court cannot issue a positive direction to the respondent to implement the order passed by the Tribunal and if it is so done, it would amount to foreclosing the right of the Department.

7. Hence, while holding that the writ petition is premature, the writ petition is disposed of by granting liberty to the petitioner to revive the request after the expiry of 180 days from the date, on which, the Department received the copy of the order passed by the Tribunal and if such a request is made and in the meantime, if no appeal is filed by the Department, the request made by the petitioner should be considered. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, No.60, Rajaji Salai, Chennai-1.

+1 cc to Mr.S.R.Sundar Advocate sr 342
+1 cc to Mr.Hari Radhakrishnan Advocate sr 589

WP.No.34243 of 2017

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