IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.22120 of 2018

M/s.Sai Exports,
Represented by its Proprietor Mr.Mahesh Kumar
No.85, Maruthachalapuram,
60 Feet Road, (Opp.Go Go Garments),
Kottai Thottam,
Tiruppur - 641 602. ... Petitioner

vs.

The Deputy Commissioner of Customs (GR.3),
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001. ..Respondent

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent herein to carry out final assessments of the bills of entry referred to in their dated 19.06.2018 taking in to account the Final Orders passed by the Hon'ble Tribunal under reference No.40521-40522/2018 dated 01.03.2018 and to return the bank guarantees and bonds duly cancelled.

For Petitioner : Mr.S.Murugappan
For Respondent : Mr.K.Umesh Rao,
Central Government Standing Counsel

O R D E R

The petitioner seeks for mandamus directing the respondent to carry out final assessment for the various bills of entry filed by the petitioner commencing from the month of May 2015 referred to in their representation dated 06.04.2018, by taking into account of the final order passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai dated 01.03.2018 made in Final Order No. 40521-40522/2018.

2. The grievance of the petitioner is that even though the subject matter bills of entry were provisionally assessed by taking bank guarantees from the petitioner, the respondent has not chosen to pass final orders, more particularly, when the

Tribunal has decided the issue in favour of the petitioner, by its order dated 01.03.2018 as stated supra.

3. On the other hand, the respondent filed a counter affidavit and submitted that the issue involved has not attained finality pursuant to the order passed by the CESTAT, as the revenue is contemplating to file an appeal against the said order, which was received by the revenue only on 25.09.2018. Therefore, it is contented that the respondent is having time limit for filing appeal against the said order and therefore, only when the appeal filed against the said order of the Tribunal is decided, the respondent will be in a position to pass final orders on these bills of entry.

4. This writ petition is filed for passing final orders on the bills of entry filed by the petitioner from the month of May 2015. At the same time, the petitioner seeks for such final orders, by taking into account of the order passed by the Tribunal dated 01.3.2018 as stated supra. Since it is claimed by the respondent that they are contemplating to file an appeal against the said order of the Tribunal, this Court is not in a position to issue a positive direction to the respondent to pass final orders by taking into account of the order passed by the Tribunal dated 01.03.2018, as it is always open to the respondent to challenge the said order before the next Appellate Forum.

5. Therefore, without expressing any view on the merits of the claim made by both sides, this writ petition is disposed of, for the present, however, by granting liberty to the petitioner to work out their remedy afresh, after the statutory appeal time is over. No costs.

Sd/-
Assistant Registrar

//True Copy//

mk

Sub Assistant Registrar

To
The Deputy Commissioner of Customs (GR.3),
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.

+1cc to Mr.K.Umesh Rao, Advocate, S.R.No.77554
+1cc to Mr.S.Murugappan, Advocate, S.R.No.77568

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VG-II(CO)
RRK(/05/2018)