IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.2853 of 2018
&
W.M.P.No.3520 of 2018

M/s.Giesecke & Devrient MS India Private Limited
(Formerly known as M/s.Giesecke and Devrient
India Private Limited)
Represented by its authorized signatory
Mr.Amit Agarwal
Plot No.118, Perungudi Industrial Estate
Perungudi
Chennai- 600 096 ... Petitioner

Vs.

The Principal Commissioner of Customs
Commissionerate VII
New Customs House
Meenambakkam
Chennai – 600 016 ...Respondent

Prayer:

Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the impugned proceedings on the file of the respondent in F.No.CAU/SIIB/14/2017-AIR comprising of Order in Original No.690/2017-AIR dated 21.12.2017 passed by the respondent and quash the same insofar as it directs for enforcement of bank guarantee No.CGANDH610273 dated 14.12.2016 and provisional duty bond dated 30.11.2016 and confiscation of the goods under Bill of Entry No.7007240 dated 07.10.2016 and Bill of Entry No.3160915 dated 04.11.2015 and further direct the respondent not to initiate recovery proceedings.

For Petitioner : Mr.S.Muthuvenkataraman

For Respondent : Mr.K.Ravi
Senior Panel Counsel

ORDER

The petitioner has impugned the order-in-original dated 20.12.2017 by which the value of the imported goods were re-determined, apart from imposing penalty on the three noticees, one of whom is before this court by way of this writ petition.

2. Learned counsel appearing for the writ petitioner submitted that the writ petition was filed since the respondent Department was initiating action to implement the impugned order even before the expiry of period of limitation for filing an appeal before the Customs, Excise, Service Tax Appellate Tribunal (CESTAT). Taking note of the said submission, this Court by order dated 09.02.2018 directed that till the writ petition is heard and disposed of, the respondent/Department shall not initiate any precipitative action pursuant to the impugned order dated 20.12.2017, by way of either encashing the Bank Guarantee or enforcing the provisional bond, as the time for filing the appeal as against the impugned order before the CESTAT is yet to be over. There was also a direction issued to the petitioner to file the appeal before the CESTAT within a period of two weeks from 09.02.2018.

3. Learned counsel for the petitioner submitted that in terms of the direction issued by this Court, the petitioner has to effected the mandatory pre-deposit of 7.5% of the disputed tax due and lodged the appeal before the CESTAT, which has been taken on file on 09.02.2018.

4. In the light of the above, the writ petition is disposed of by directing the respondent/Department not to initiate any precipitative action pursuant to the impugned order dated 20.12.2017, as the CESTAT is seized of the matter and the petitioner has complied with the mandatory pre-deposit for lodging the appeal before the CESTAT.

5. The learned counsel appearing for the respondent points out that since the revenue involved in the instant case is substantial, the Court may consider issuing a direction to the CESTAT to expedite the hearing of the appeal. However, I am not inclined to give such a direction and it is open to the respondent to request CESTAT to take up the appeal as early as possible as I am informed that there are two Benches of CESTAT are functioning in Chennai.

The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gpa

To

The Principal Commissioner of Customs
Commissionerate VII
New Customs House
Meenambakkam
Chennai - 600 016

+1cc to Mr.S.Muthuvenkataraman, Advocate, S.R.No.38962

W.P.No.2853 of 2018

KAN(CO)
CS/27/06/18