In the High Court of Judicature at Madras

Dated : 18.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14021 of 2018

M/s.Novel Impex, rep.By its
Proprietor Narendra Kumar Vora ...Petitioner

Vs

1.The Commissioner of Customs
(Group 3) Chennai II Commissionerate,
No.60, Rajaji Salai, Customs House,
Chennai-1.

2.The Deputy Commissioner of Customs,
(Group 3), No.60 Rajaji Salai,
Customs House, Chennai-1. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to implement the orders passed by the CESTAT, Chennai, which vide its Final Order No.41201/2018 dated 13.4.2018 in C/40687/2018-DB had by following the ratio laid down by the jurisdictional High Court and also the judgment of the Honourable Apex Court held that the onerous condition laid down by the 2nd respondent and the same confirmed by the Commissioner of Customs (Appeals) cannot be sustained and accordingly while setting aside the same had directed the provisional release of the impugned goods upon compliance of the modified condition without any undue delay the goods of which are covered under Bill of Entry Nos.3510385 and 3510423, both dated 06.10.2017.

For Petitioner : Mr.N.Viswanathan
For Respondents : Mr.G.M.Syed Nurullah Sheriff

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner seeks implementation of the order passed by the Customs, Excise and Service Tax Appellate Tribunal dated 13.4.2018, by which, a provisional release of the cargo has been granted subject to new conditions.

3. The learned Senior Standing Counsel appearing for the respondent has got written instructions from the Legal Wing of Chennai II Commissionerate vide email dated 12.6.2018 stating that the Revenue has proposed to file an appeal against the order of the Tribunal.

4. The period of limitation is six months from the date of receipt of a copy of the order passed by the Tribunal. The Department is stated to have received the order copy of the Tribunal on 12.6.2018. Therefore, in the interregnum, this Court cannot issue a direction to implement the order of the Tribunal, since this Court cannot curtail a statutory appeal remedy available to a party under the provisions of the Customs Act. All that this Court can do is to dispose of the writ petition with an observation.

5. Accordingly, the writ petition is disposed of with an observation that if the respondent fails to invoke the appeal remedy available to them under the said Act within the period of limitation stipulated, by taking note of the fact that the order copy has been received by the Department on 12.6.2018, on the expiry of limitation period, within one week thereafter, the respondent shall implement the order passed by the Tribunal. No costs.

18.6.2018

Internet : Yes

To
1.The Commissioner of Customs (Group 3) Chennai II Commissionerate, No.60, Rajaji Salai, Customs House, Chennai-1.
2.The Deputy Commissioner of Customs, (Group 3), No.60 Rajaji Salai, Customs House, Chennai-1.

RS

<u>T.S.SIVAGNANAM,J</u>

RS

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