

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.38585 of 2003
and W.P.M.P.Nos.46816 & 46817 of 2003

M/s. Indian MRI Diagnostic & Research Ltd.,
rep. by its Chairman, having its office
at Plot No.762, West Main Road,
Anna Nagar, Madurai- 625 020

...Petitioner

..Vs..

- 1.Customs, Excise and Service Tax,
Appellate Tribunal, South
Zonal Bench, Sastri Bhavan,
No.26, Haddows Road, Chennai-6
- 2.The Commissioner of Customs(Appeals),
Office of the Commissioner of Customs,
Custom House, Chennai-1
- 3.The Commissioner of Customs,
Officer of the Commissioner of Customs,
Custom House, Chennai-1
- 4.The Additional Deputy Director General of Health
Services(Medical General Section),
Ministry of Health and Family
Welfare, Nirman Bhavan, Maulana Azad
Road, New Delhi- 110 011

...Respondents

Petition filed under Article 226 of Constitution of India for the issuance of a Writ of Certiorari calling for the records in Order No.2. 37034/7/90-MG, dated 04.11.1997 passed by the fourth respondent and consequential order No.139/98 dated 24.08.1998 (O.S.No.823/392/90(PT). Gr.5B) passed by the third respondent order in appeal No.C.3/228/0 / 2000/SEA, (C.CUS.424/2000) dated 08.06.2000 passed by the second respondent and the order in No.C/1250/98/MAS dated 05.08.2003 passed by the first respondent.

For Petitioner : Mr.N.Inbarajan
For RR4 : Mr.J.Madavagopal Rao, SCGSC
For R2& 3 : Mr.G.M.Syed Nurullah Sheriff
Standing Counsel
For R1 : Tribunal

O R D E R

The prayer sought for in the present writ petition is for issuance of a Writ of Certiorari calling for the records in Order No.2. 37034/7/90-MG, dated 04.11.1997 passed by the fourth respondent and the consequential order No.139/98 dated 24.08.1998 (O.S.No.823/392/90(PT). Gr.5B) passed by the third respondent, order in appeal No.C.3/228/0 /2000/SEA, (C.CUS.424/2000) dated 08.06.2000 passed by the second respondent and the order in No.C/1250/98/MAS dated 05.08.2003 passed by the first respondent.

2. Under Section 130 of the Customs Act, against the order of CESTAT, an appeal lies and as such, the present writ petition may not be maintainable. Hence, this writ petition is liable to be dismissed.

3. At this Juncture, it is submitted by the learned counsel for the petitioner that he may be given liberty to file an appeal on an order dated 05.08.2003 in Final Order No.763 of 2003. On a perusal of the said order, it is seen that the writ petition has been filed within the time limit prescribed for filing an appeal under Section 130 of the Customs Act and as such, it cannot be said that the petitioner had belatedly approached this Court and therefore, the Limitation prescribed for filing an appeal can be relaxed.

4. In view of the same, the petitioner is at liberty to file an appeal against the impugned order dated 05.08.2003 in Final Order No.763 of 2003, within a period of 30 days from the date of receipt of a copy of this order.

5. Registry is directed to return the original impugned order dated 05.08.2003, to the learned counsel appearing for the petitioner.

6. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

dn

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1. Customs, Excise and Service Tax,
Appellate Tribunal, South
Zonal Bench, Sastri Bhavan,
No.26, Haddows Road, Chennai-6
2. The Commissioner of Customs (Appeals),
Office of the Commissioner of Customs,
Custom House, Chennai-1
3. The Commissioner of Customs,
Officer of the Commissioner of Customs,
Custom House, Chennai-1
4. The Additional Deputy Director General of Health
Services (Medical General Section),
Ministry of Health and Family
Welfare, Nirman Bhavan, Maulana Azad
Road, New Delhi- 110 011

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.16273/19
+1cc to Mr.G.M.Syed Nurullah Sheriff, Advocate, S.R.No.16315

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Rji (CO)
Kak (02/04/2019)