

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Appeal No.1720 of 2019
and C.M.P.No.11526 of 2019

- 1.Commissioner of Customs, Chennai-II
Commissionerate, Customs House
No.60, Rajaji Salai, Chennai - 600 001.
 - 2.The Additional Commissioner of Customs-II (G-5)
Customs House, No.60, Rajaji Salai
Chennai - 600 001. Appellants/Respondent
- Vs-

M/s.S.P.Associates
Rep.by its Proprietor Mr.Yogendra Pratap
No.1/11959, Uldhanpur, Naveen Shahdara
Delhi - 110 032. Respondent/Petitioner

For Appellants : Mr.Syed Nurullah Sheriff

For Respondent : Mr.S.Sankaranarayanan

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order passed in W.P.No.33982 of 2018 dated 22.02.2019. Directing the respondents to given a hearing and pass order in respect of the Bill of Entry No.8285902 dated 02/10/2018 by taking into account the judgment of the Honourable High court of Hyderabad in WP.No.2728 of 2018 dated 06/04/2018 and also the decision of the Tribunal in Final Order No.41864/2018 dated 11/05/2018.

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI, J.)

This appeal arises out of the order of the learned Single Judge dated 22.02.2019, disposing of a batch of writ petitions W.P.No.26049 of 2018 etc., batch (M/s.Skylark Office Machines and others -Vs- The Commissioner of Customs and others).

2. The learned Single Judge, in the operative portion of the said order, had directed the assessee to appear before the adjudicating authority, giving liberty to the adjudicating authority to initiate proceedings for assessment and adjudication of the consignments in question, in terms of the applicable statutory provisions and in accordance with law.

3. The Customs Department filed Writ Appeals against that order of the learned Single Judge and a batch of Writ Appeals in W.A.No.1215 of 2019 (Commissioner of Customs -Vs- City Office Equipment, Chennai), came to be disposed of by the Coordinate Division Bench of this Court on 25.04.2019, affirming the aforesaid part of the order of the learned Single Judge in the following manner.

"Therefore, we direct the appellants to commence adjudication process and show cause notice be issued to the respondents within a period of four weeks from the date of receipt of a copy of this judgment. After affording reasonable time to the respondents to submit their reply to the show cause notice, the case be adjudicated on merits in accordance with law after affording an opportunity of personal hearing to the Authorized Representative of the respondents. No costs. Consequently, connected miscellaneous petitions are closed."

4. The learned counsel for the respondent assessee Mr.Sankaranarayanan urged before us that a time frame may be fixed for the adjudicating authority to complete such adjudication process, as directed by the Coordinate Bench of this Court and also the adjudicating authority below should be directed to follow the previous decision of the CESTAT cited at Bar to maintain the judicial discipline.

5. Learned counsel for the appellant department Mr.Syed Nurullal Sheriff, however submitted that similar order as passed by the Coordinate Division Bench of this Court, may be passed in the present case also.

6. Having heard the learned counsel for both the parties, we feel that expressing any opinion on the merits of the case may prejudice the rights of the parties at this stage, since the case has admittedly been remitted back to the adjudicating authority for adjudication of various issues. It goes without saying that the respondent assessee is at liberty to cite all relevant case laws before the said authority and the said authority has already been directed and is otherwise also expected to pass orders in accordance with law, giving his

findings and reasons in respect of the issues raised before him. However, to avoid further prolonging of the adjudication, we are inclined to set a time frame for completing the adjudication by the authority concerned.

7. Accordingly, in terms of the order passed by the Coordinate Division Bench of this Court, the concerned adjudicating authority may issue a show cause notice to the assessee within four weeks from the date of receipt of a copy of this order and the assessee may raise all objections before the said authority within a period of four weeks thereafter. The said authority is directed to complete the adjudication process within a period of ten weeks from today. With the above directions, this appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

KST

+1cc to Mr.Syed Nurullah Sheriff, Advocate SR.No.45994

+2cc to Mr.S.Sankaranarayanan, Advocate SR.No.45972

W.A.No.1720 of 2019

RSV(CO)
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