

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.4107 to 4110 of 2016
WMP.Nos.3426 to 3429 of 2016

Shri Mohammed Sahabudeen ...Petitioner in WP.No.4107 of 2016
Shri Mohammed Jahir Hussain ...Petitioner in WP.No.4108 of 2016
Shri Ahamed Meeran ...Petitioner in WP.No.4109 of 2016
Shri Masilamani Balaji ...Petitioner in WP.No.4110 of 2016

--Vs--

- 1.The Commissioner of Customs (Appeals-II)
60, Rajaji Salai, Customs House
Chennai-600 001
- 2.The Additional Commissioner of Customs (GR.2)
60, Rajaji Salai, Customs House
Chennai-600001 ... Respondents in all WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus, calling for the records comprised in Order in Appeals C.Cus-II Nos.51 to 54/2016 dated 19.01.2016 of the 1st respondent and to quash the same and consequently direct the 1st respondent to hear the appeals of the petitioners on merits without insisting for the mandatory pre-deposit in terms of the amended provisions of Sec.129E of the Customs Act.

For Petitioners : Mr.N.Viswanathan - Petitioner in all

For Respondents : Mr.A.P.Srinivas SSC - Respondent in all

C O M M O N O R D E R

The petitioners in these petitions seek a certiorarified mandamus calling for the records and quashing an order of the Commissioner of Customs (Appeals) rejecting appeals on the ground that the mandatory, statutory pre-deposit of disputed demands has not been made. The petitioners also seek a direction to 1st respondent to hear the appeals of the petitioners on merits without insisting upon mandatory pre-deposit in terms of the amended provision of Section 129E of the Customs Act.

2. While these writ petitions have been filed in January 2016, a Division Bench of this Court in the case of Dream Castle Vs. Union of India [(2016) 43 STR 25], considered the amendment to Section 129E (inserted with effect from 06.08.2014) holding that the same would be applicable to all assesseees and not only to proceedings initiated after the date of amendment that is, 06.08.2014.

3. In the light of the aforesaid decision of the Division Bench, these writ petitions are liable to be dismissed and I do so. The petitioners are, however, granted liberty to remit the statutory pre-deposit, if so inclined and file proof of remittance of the same before the office of the Commissioner (Appeals) within a period of eight weeks from today.

4. Mr.A.P.Srinivas, learned Senior Standing Counsel does not object to above liberty granted. Upon receipt of the pre-deposit, if made within the time as granted, the appellate authority will list the appeals for hearing on merits and dispose the same in accordance with law.

5. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

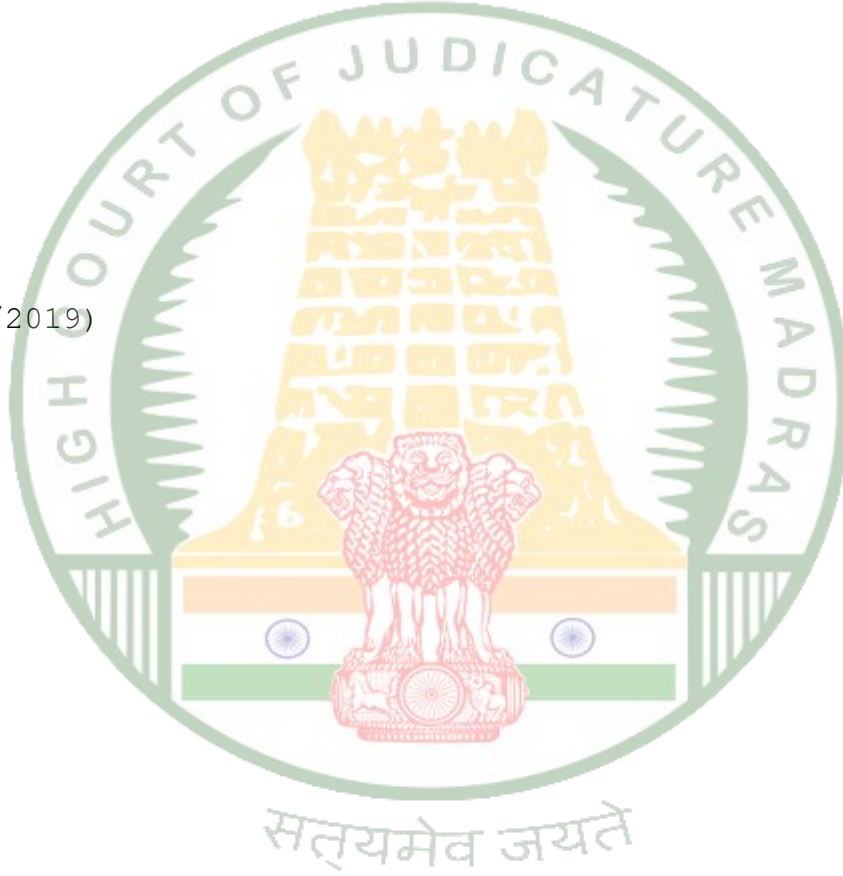
1.The Commissioner of Customs (Appeals-II)
60, Rajaji Salai, Customs House
Chennai-600 001

2.The Additional Commissioner of Customs (GR.2)
60, Rajaji Salai, Customs House
Chennai-600001.

+1cc to Mr.A.P. Srinivas, Advocate, SR.No.89143.
+4cc to Mr.N.Viswanathan, Advocate, SR.No.89056.

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NR (CO)
CSR(09/12/2019)



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