

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.01.2020
CORAM
THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR
C.M.A.No.2211 of 2017

The Commissioner of Customs
Chennai IV Commissionerate, Customs House
No.1, Rajaji Salai, Chennai 600 001. ... Appellant

-Vs-

M/s.K.V.Paints & Chemical Co.,
No.70, Najafgarh Road
New Delhi 110 015. Respondent

For Appellant : Mr.T.Pramod Kumar Chopda
Senior Standing Counsel

For Respondent : Mr.R.Parthasarathy
for M/s.Lakshmi Kumaran

Prayer : Civil Miscellaneous Appeal under Section 130 of the
Customs Act to set aside the Final Order No.40369 of 2017 dated
23.02.2017 passed by the Customs, Excise and Service Tax
Appellate Tribunal, Chennai.

J U D G M E N T

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

The Revenue has filed the present appeal against the short order of the Customs, Excise and Service Tax Appellate Tribunal, Chennai dated 23.02.2017, whereby the learned Tribunal, upholding the order dated 27.02.2015 passed by the Commissioner of Customs (Appeals-II), Chennai, dismissed the appeal filed by the Revenue as time barred.

2. Both the appellate authorities, did not decide the merits of the case against the adjudication order, but dismissed the appeal as time barred. The order of the Commissioner of Customs (Appeals-II), Chennai dated 27.02.2015 is on record.

3. On consideration of the submissions made by the learned counsel on both sides and upon perusal of the relevant

records and dates, we are of the opinion that the matter deserves to be remanded to Commissioner of Customs (Appeals-II), Chennai for deciding the appeal on merits.

4. Accordingly, the present Civil Miscellaneous Appeal filed by the Revenue is allowed for statistical purpose by setting aside the order of the learned Tribunal dated 23.02.2017 as well as the order passed by the Commissioner of Customs (Appeals-II), Chennai dated 27.02.2015. We remand the matter back to the Commissioner of Customs (Appeals-II), Chennai to decide the appeal on merits by giving an opportunity of hearing to both sides. With the above observations, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KST
To

1. Customs, Excise and Service Tax Appellate Tribunal, Chennai.
2. Commissioner of Customs (Appeals-II), Chennai .
3. Commissioner of Customs
Chennai V Commissionerate, Customs House
No.1, Rajaji Salai, Chennai 600 001.

+1cc to Mr.T.Pramod kumar Chopda , Advocate SR.No. 5374

C.M.A.No.2211 of 2017

A.SK(28/02/2020)

सत्यमेव जयते

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