IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.08.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.40433 of 2002

Durga Toys Manufacturing Pvt. Ltd.,
Registered office:12-G, “Ramanujam Complex”,
Kasi Chetty Lane, Chennai – 600 079. .. Petitioner

Vs

1. The Customs, Excise and Gold (Control)
Appellate Tribunal,
(South Regional Bench),
'Shastri Bhavan', Annex 1st Floor,
26, Haddows Road, Chennai – 600 006.

2. The Commissioner of Customs (Sea),
Customs House, No.60, Rajaji Salai,
Chennai – 600 001. .. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the record pertaining to the impugned Final Order No.448/2002 dated 12.04.2002 passed by the 1st respondent herein and quash the same and direct the 1st respondent to re-hear the matter afresh by remanding the matter to the 1st respondent.

For Petitioner : Mr.R.Ganesan

For Respondents : Mr.V.Sundareswaran (For R1 and R2)
Senior Panel Counsel

ORDER

The writ on hand is filed challenging the order dated 12.04.2002 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, (South Regional Bench) at Chennai.

2. Facts as narrated in the writ petition become unnecessary in view of the fact that the writ petition is not maintainable. Section 130 of the Customs Act, 1962 stipulates appeal to the High Court. Sub Section 1, states that an appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for the purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.

3. Therefore, in respect of the question having a relation to the rate of duty of customs or to the value of goods for the purposes of assessment, appeal will not lie before the High Court.

4. Section 130E contemplates appeal to Supreme Court and sub section (b) to Section 130E, reads as follows:

> " (b) any order passed before the establishment of the National Tax Tribunal by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment."

5. In view of Section 130 of the Customs Act, no appeal lies before the High Court in respect of any question having relation to the rate of duty of customs or to the value of goods for the purposes of assessment. However, an appeal will lie before the Supreme Court on such issues, more specifically, under sub section (b) to Section 130E of the Act. This being the legal position, the writ petition filed before this Court is not maintainable and the petitioner is at liberty to approach the appropriate Court for the purpose of redressal of their grievances.

6. With these observations, the writ petition stands dismissed. No Costs.

12.08.2021

Speaking/Non-speaking order
Index: Yes/No
Internet: Yes
ars

S.M.SUBRAMANIAM, J.,

ars

To

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Appellate Tribunal,
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