In the High Court of Judicature at Madras

Dated : 18.3.2021

Coram :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

Civil Miscellaneous Appeal No.987 of 2016

The Commissioner of Customs (Seaport-Import), Customs House, Chennai-1. ...Appellant/Respondent

Vs

M/s.Maharaja Cargo, Chennai-90 ...Respondent/Appellant

APPEAL under Section 130 of the Customs Act, 1962, 1962 against Final Order No.41217 of 2015 dated 18.9.2015 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant : Mr.T.Pramod Kumar Chopda, SSC
For Respondent : Mr.G.Derrick Sam for Mr.Hari Radhakrishnan

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard Mr.T.Pramod Kumar Chopda, learned Senior Standing Counsel appearing for the appellant and Mr.G.Derrick Sam, learned counsel appearing on behalf of Mr.Hari Radhakrishnan, learned counsel for the respondent.

2. This appeal, filed by the Revenue under Section 130 of the Customs Act, 1962 (for short, the Act), is directed against Final Order No.41217 of 2015 dated 18.9.2015 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai (for brevity, the Tribunal).

3. The above appeal was admitted on 23.8.2016 on the following substantial questions of law :

> "1. Whether the Tribunal was empowered to nullify its earlier order in F.O.No.40572 of 2013 dated 7/10/2013?

2. Whether the impugned order of the Tribunal in allowing the appeal of the respondent is perverse, unreasonable being contrary to the very Customs House Agent License Regulations, 2004 r/w. The provisions of the Customs Act, 1962?

3. Whether the Tribunal failed to appreciate that the procedure infirmities cannot be pitted against the substantial public interest interpreted by the Apex Court in 2016-TIOL-13-SC-CUS in the case of Commissioner of Customs Vs. M/s.K.M.Ganatra & Co?

4. Whether the Tribunal conclusion was correct when the facts of the case and Inquiry Report proved that the respondent being a CHA had violated the obligations under the Customs House Agent License Regulations, 2004 warranting immediate action of suspension followed by Inquiry and hearing resulting in revocation of License?

5. Whether the Tribunal was justified in ignoring the law that when the aggrieved party is well aware of the charges and allegations made and had made a deposition under Section 108 of the Customs Act, 1962, the non-issuance of notice for revocation of CHA License would vitiate the entire proceedings more particularly in light of its remand order in F.O.No.40572/ 2013 dated 7/10/2013?

6. Whether the Tribunal was correct in ignoring the law that the Customs House Agents License Regulations, 2004 framed by the Central Board of Excise and Customs under Section 146 of the Customs Act, 1962 is a purposive piece of delegated Legislation framed by the Board with the object of carrying out the provisions of the Customs Act, 1962?

7. Whether the Tribunal failed to follow the settled law that when substantial compliance of the regulations were made, the technical or procedural violations shall not nullify the proceedings to defeat the very object and purpose of the Regulations ?”

4. On instructions, the learned Senior Standing Counsel appearing for the appellant submits that the CHA licence granted to the respondent has not been renewed beyond 21.6.2015.

5. The said submission of the learned Senior Standing Counsel appearing for the appellant is not disputed by the learned counsel for the respondent. Rather, it has been added that the proprietor of the respondent passed away.

6. In the light of the above, nothing survives for adjudication in this appeal.

7. Accordingly, the above civil miscellaneous appeal is disposed of as nothing survives for adjudication. The substantial questions of law framed are left open. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
1.The Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

2.The Commissioner of Customs
(Seaport-Import) Customs House
Chennai 1.

+1 CC to Mr.T.Pramod Kumar Chopda, Advocate sr 17938.
+1 CC to Mr.T.Hari Radhakrishnan, Advocate sr 17903.

NR(CO)
SP(29/04/2021)