

**FMA 1141 of 2017  
With  
CAN 1 of 2017 (Old CAN 2598 of 2017)**

**Ektara Exports Private Limited**

**Vs.**

**Union of India & Ors.**

(Through Video Conference)

Mr. Ramesh Kumar Chowdhary

... ... for the appellant

Mr. Vipul Kundalia

Mr. Siddhartha Lahiri

... ... for the Union of India

This appeal is directed against the order of the learned Single Judge dated 10.02.2017 passed in WP No. 4557(W) of 2015 whereby the learned Single Judge has dismissed the petition.

Short submission of learned counsel for the appellant is that the appellate order of the Board dated 24<sup>th</sup> July, 2014 is a non-speaking order and that the identical order of the appellate Board of the same date was subject matter of challenge by one M/s. Ellenbarrie Exim Limited in WP No. 2622(W) of 2015 which was allowed by the learned Single Judge by order dated 24.02.2015 on the ground that the appellate order was a non-speaking order. He submits that the case of the appellant stands on the same footing, therefore, the appellant is also entitled to the same order.

Learned counsel for the respondents has opposed the petition and has submitted that the appellant cannot travel beyond the relief prayed in the writ petition.

Having examined the record, we notice that the order of the Board dated 24<sup>th</sup> July, 2014 in the case of the present appellant as also in the case of M/s. Ellenbarrie Exim Limited is identical which reads as under:

“The Board heard the appellant and after examining the matter decided to reject the appeal.”

Learned counsel for the respondents has fairly submitted before this Court that there is no separate order recorded the reason. The record further reflects that M/s. Ellenbarrie Exim Limited had filed WP No. 2622(W) of 2015 which was allowed by the learned Single Judge by order dated 24.02.2015 by observing as under:

“In my view, since the appeal has been rejected by a one-sentence order without giving any reason, the order passed in the appeal cannot be sustained and is, thus, set aside and quashed. The writ petition is allowed. Accordingly the appellate authority is directed to hear the matter afresh within a period of eight weeks from the date of presentation of a copy of the certified copy of this order and shall pass a reasoned order to be communicated to the petitioner after giving an opportunity of hearing the petitioner and after verifying the records. During hearing of appeal the petitioner is at liberty to take all points and the appellate authority in its order shall deal with the same. It is made clear that I have not gone into the merits of the case and all points are kept open to be dealt with in appeal.”

Since the case of present appellant stands on the same footing, therefore we are of the opinion that the appellant is also entitled to the same relief.

Hence, we allow this appeal and set aside the order of the learned Single Judge and dispose of the petition by setting aside the order of the Board dated 24<sup>th</sup> July, 2014 so far as it relates to the present appellant and direct the appellate authority to hear the matter afresh within a period of eight weeks from the date of presentation of certified copy of this order and to pass a reasoned speaking order after giving opportunity to the appellant and duly communicate the same to the appellant.

The appellant will be at liberty to raise the additional grounds, if required.

We make it clear that we have not expressed any opinion regarding the merits of the matter and appellate authority will be free to decide afresh in accordance with law.

The appeal is allowed and the connected application is accordingly disposed of.

**(Prakash Shrivastava, C.J.)**

**(Rajarshi Bharadwaj, J.)**