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24.11.2022
Ct. No. 16

MAT 1451 of 2016
I.A. No. CAN 1 of 2016 (Old No. CAN 7867 of 2016)

Sri Suresh Chand Goyal
vs.
Union of India & ors.

Mr. Debaditya Banerjee

... for the appellant

Mr. Uday Sankar Bhattacharyya
Mr. Tapan Bhanja

... for the respondents

Mr. Nilotpall Chowdhury

... for the proforma respondents

This appeal is of the year 2016. An order was passed on 05.10.2016 which reads as follows:

“By our order dated 5th September, 2016 we directed that the goods may be released subject to furnishing security in accordance with para 3.2 of the CBEC Circular No.686/2/2003-CX dated 2.1.2003. Our attention has been drawn by Mr. Dutta, learned Senior Advocate appearing for the appellant that in spite of the appellant’s offering security the authorities have not released the goods. Both Mr. Dutta, learned Advocate for the appellant and Mr. Bhattacharya, learned Advocate for the respondents relied on paragraph 3.2 which reads as follows:-

“The power to release seized goods emanates from the power to seize. The goods seized may be released provisionally under bond in the Format specified under the erstwhile Central Excise Rules, 1944 [B-11 bond] along with 25% security or surety by the officer who is normally competent to adjudicate the case. The adjudicating officer will also consider the importance of such goods for evidence, and will release the goods provisionally if the bond is furnished. Wherever necessary, sample may also be drawn. The adjudicating officer, however, will ask the owner or in-charge of the goods to whom the goods were released provisionally to produce the goods any time before the issue of adjudication order, if he is of the view that the goods are liable for confiscation. In case the person to whom goods were released provisionally fails to

produce the goods at appointed time, the bond may be enforced for recovering the amount due."

It was submitted by Mr. Dutta that the goods may be released either to the owner or to the person in-charge of the goods. He submitted that insistence of Mr. Bhattacharya's client to release the goods only to the owner is clearly contrary to the aforesaid provision.

We do not intend to pass any fresh order. Our order is already there. In case the respondent authorities or any one of them is not interested in carrying out the same, consequences will follow.

Liberty to apply.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned Advocates for the parties, upon compliance of all formalities."

Learned counsel appearing on behalf of the appellant is unable to report this Court as to the present circumstances. In our considered view, no useful purpose would be served in keeping this appeal pending as direction had already been issued to release the goods subject to certain conditions.

Therefore, we dispose of this appeal giving liberty to the appellant to raise all the claims before the concerned adjudicating authority and if the goods are not released, it is well open to the appellant to work out his remedies in accordance with law.

Consequently, the connected application also stands disposed of.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)

