15 RP AN 06.09.2022 Ct. No. 16

MAT 1417 of 2022
with
IA No. CAN 1 of 2022

KHADIM INDIA LIMITED
vs.
Assistant Commissioner, State Tax, Bureau of Investigation & ors.

Mr. Anil Kumar Dugar
Mr. Rajarshi Chatterjee
Mr. Gobinda Dey
... for the appellant

Mr. A. Ray, ld. G.P.
Md. T. M. Siddiqui, ld. A.G.P.
Mr. D. Ghosh
Mr. N. Chatterjee
Mr. V. Kothari
... for the State

This intra-Court appeal is directed against the order dated 23.08.2022 passed in WPA 18565 of 2022. In the writ petition the appellant had questioned the correctness of the action of the respondent department in detaining the goods along with the vehicle which was transporting footwear which said to have been imported from Nepal on the only ground that the validity of e-way bill had expired on 28.08.2022 and the vehicle was intercepted on 30.08.2022 near Bally Bridge area.

The learned Single Judge did not grant any interim order for interim relief and, therefore, the appellant is before us.

In our considered view no useful purpose will be served in keeping the writ petition pending since the entire tax has been recovered when the goods were imported from Nepal and crossed the customs barrier into India. If at all the respondent authorities for alleged violation of the provisions of CGST Act are to initiate action the question of imposition of penalty could arise.

Therefore, in our considered view, the writ petition and the appeal can be disposed of by issuing certain directions, which can not only safeguard the interest of the appellant but also that of the revenue.

In the result, the writ petition as well as the appeal along with the connected application are **disposed of** with a direction upon the appellant to furnish a bond to the satisfaction of the respondent authorities in the appropriate form to secure imposition of penalty which was proposed in the show cause notice. The goods along with the vehicle shall be released within 24 hours from the date of production of such bond. The appellant is granted 15 days time to submit its reply to the show cause notice and thereafter the concerned authority shall take up the show cause for adjudication after affording an opportunity of personal hearing to the authorized representative of the appellant and pass a reasoned order on merits and in accordance with law. Till the conclusion of the proceedings, the bond shall remain valid.

There shall, however, no order as to costs.

(T. S. Sivagnanam, J.)

(Supratim Bhattacharya, J.)