

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
AN APPEAL FROM ITS CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

APOT/339/2016
IA NO. GA/2/2016 (OLD GA/2988/2016)
COMMISSIONER OF CUSTOMS, WEST BENGAL
Versus
TRIVENI GLASS LIMITED & ANR.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Dated : NOVEMBER 16, 2022.

Appearance:
Mr. K.K. Maiti, Adv.
Ms. Aishwarya Rajyashree, Adv.
...for appellant

The Court: - This intra-Court Appeal by the revenue is directed against the order in WP No. 885 of 2002 filed by the respondent writ petitioner, M/s. Triveni Glass Limited & Anr. The writ petition was filed challenging an order passed by the third appellant dated March 29, 2004 by which a request was made by the respondent/writ petitioner for conversion of the shipping bill to which duty exemption entitlement certificate shipping bills, was rejected. The ground for rejection was by stating that the circular which initially permitted such conversion stood superceded and a new circular had been issued which does not provide for such conversion. The contention of the writ petitioner was that the export obligation was fulfilled when the earlier circular was in vogue and, therefore, such right of conversion stood vested in the respondent exporter and they are entitled for such conversion. The third appellant while passing the order impugned in the writ petition dated March 29, 2004 does not state that the

writ petitioner has not fulfilled the export obligation. However, as noted by the learned Single Bench in the affidavit-in-opposition the appellants have alleged that the respondent/writ petitioner has not fulfilled the export obligation. The learned Single Bench after considering the submissions on either side was of the view that the order impugned in the writ petition has proceeded based on circular the applicability of which was questioned by the writ petitioner and noting there were other errors in the order the writ petition was allowed and the order dated 29th March, 2004 was set aside with the direction to the third appellant to reexamine the claim of the writ petitioner in accordance with law being uninfluenced by any observations made in the order passed in the writ petition.

We fail to understand as to how the appellants are prejudiced by such an order because the matter stands remitted to the third appellant for fresh consideration that too without being influenced by any of the observations made in the order passed in the writ petition. Therefore, we find no grounds to entertain this appeal.

Accordingly, the appeal is dismissed. However, there will be no order as to costs.

The time stipulated by the learned Single Bench in its order dated 6th April, 2016 stands extended for a period of three months from date.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)