IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2022

CORAM:

THE HONOURBLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.A.No.2416 of 2013
and
MP.No.1 of 2013

1.M/s.India Sales Corporation
A-19, 2nd Phase, MEPZ
Tambaram
Hennaing 600 045

2.Tayeb Haroon
Flat C-2, II Block
Keenees Enclave
No.1, Chari Street
T.Nagar, Chennai 600 017

...Appellants/ Petitioners

Versus

The Commissioner of Customs
Airport and Air Cargo Complex
New Custom House
Meenambakkam
Chennai 600 027

...Respondent/ Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order of this Court dated 22.10.2013, dismissing the Miscellaneous Petition in No.1 of 2013 in W.P.No.8956 of 2012.

Prayer in MP in No.1 of 2013 in W.P.No.8956 of 2012:
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Extend the Time by four weeks or such other time as may be determined by this Honble Court for filing the statutory appeals before the Appellate Forum as per the directions of this Honble Court dated 30.04.2013, in WP No.8956/2012 .

Prayer in WP.8956 of 2012:

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent in and connected with order in Original No.26 of 2012 dated 18.01.2012 in F.NO.CAU/DRI/12/2011-Air and quash the same as it is violate of Principles of natural justice and reasonableness in the conduct of the adjudication proceedings.

For Appellants : No Appearance

JUDGEMENT

(Judgment of the court was delivered by R.MAHADEVAN, J.)

Despite the name of the appellants having been printed in the cause list, there is no representation on their behalf either in person or any learned counsel. Considering the nature of the relief sought herein, this court is inclined to dispose of this appeal, on merits.

2.Challenging the order-in-original No.26/2012 dated 18.01.2012 passed by the respondent, thereby confiscating the goods and imposing penalty, the appellants filed WP.No.8956 of 2012, which was dismissed by order dated 30.04.2013. However, it was observed by the learned Judge that the said dismissal order shall not stand in the way of the appellants approaching the appellate forum in the manner known to law and in such an event, the period during the pendency of the writ petition shall be excluded for the purpose of limitation and also it was made clear that the said order would not preclude the appellants if aggrieved, from challenging any other proceeding in the manner known to law. Aggrieved by the said order, the appellants filed MP.No.1 of 2013 in WP.No.8956 of 2012, seeking to extend the time for filing the statutory appeals before the appellate forum. The miscellaneous petition was dismissed by order dated 22.10.2013, which is impugned in this writ appeal.

3.The appellants / assesseees have stated in this appeal that the learned Judge taking note of the difficulties faced by them in preferring the statutory appeal even after obtaining the order of this court on 23.05.2012, ought to have extended the time limit for the same, whereas, citing technicalities, he rejected the miscellaneous petition seeking extension of time for preferring appeal.

4.Since the issue involved herein pertains to extension of time for filing statutory appeal by the appellants before the appellate authority, there is no requirement for this court to go into the other aspects of the case, on merits.

5.In the order impugned herein, the learned Judge has clearly observed that in view of the fact that there was no time fixed originally for filing an appeal, the question of extending the time limit by this court, will not arise. The said observation would be sufficient to safeguard the interest of the appellants qua limitation aspect. Further, there is no proof enclosed herein that the appellants approached the appellate authority by filing statutory appeal. Therefore, the present appeal filed by the appellants based on the apprehension that the appeal would be rejected by the appellate authority in limini on limitation, cannot be entertained by this court, as the same sans merit.

6.In such view of the matter, the order impugned herein does not warrant any interference by this court. Accordingly, this appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner of Customs
Airport and Air Cargo Complex
New Custom House
Meenambakkam
Chennai 600 027.

W.A.No.2416 of 2013

sr II(CO)
A.SK(23.02.2022)