WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE C. SARAVANAN

C.M.A. Nos. 2626 & 2630 of 2022

&

C.M.P. No. 20430 of 2022

The Commissioner of Customs,
Chennai – II Commissionerate,
Customs House, No.60,
Rajaji Salai, Chennai – 600 001. ..Appellant in both the appeals

Vs.

Lalit Kumar Grover
Director,
M/s. Shree Grotex Trade
Links Private Ltd.,
13/77-78, Chandra Market,
Pashupatheswar,
Varanasi – 221 001,
Uttar Pradesh. ..Respondent in both the appeals.

https://www.mhc.tn.gov.in/judis

WEB COPY

Prayer: Civil Miscellaneous Appeals to set aside the final order Nos. 42347 & 42340 of 2017 respectively dated 10.10.2017 passed by Customs, Excise and Sales Tax Appellate Tribunal, South Zonal Bench, Chennai.

J U D G M E N T

Both these appeals are disposed of by this common order.

2. The substantial questions of law raised in these appeals are as follows:

> *"1. When jurisdictional High Court judgments are available upholding the competency of the DRI to issue show caue notice under Sec.28 of the Customs Act, 1962, whether the CESTAT is correct in remanding the appeal?*
>
> *2. Whether Tribunal is empowered to remand the case without deciding the issues raised therein on the ground that jurisdiction of the officer to issue show cause notice is under dispute?"*

3. The issue has been considered on an earlier occasion by a Co-ordinate Bench of this Court in C.M.A. Nos. 1520 & 2790 o f 2018 etc and by judgment dated 08.07.2022, the Civil Miscellaneous Appeals were allowed with the following directions:

WEB COPY

*"9. Following the latest decision in **Sanket Praful Tolia's** case (supra), which is squarely covered by the issues involved herein, all these Civil Miscellaneous Appeals are allowed by setting aside the orders impugned herein and the matters are remanded to the Tribunal with a direction to keep the same pending and await the decision of the Hon'ble Supreme Court in the appeals filed against the decision in **Mangali Impex**. However, it is made clear that the appellants shall not initate any coercive action against the respondent(s)/assessee(s) and await the final decision in the appeals, which have been restored to the file of the Tribunal. Consequently, the substantial questions of law are left open. No costs. Connected Miscellaneous Petitions are closed."*

4. Following the above judgment of the Division Bench of this Court, these appeals are also allowed on the same lines, as indicated above. Incidentally, there is an amendment in the Finance Act, 2022, retrospectively validating the actions taken by the officers of Directorate of Revenue Intelligence. No costs. Connected C.M.P. is closed.

(S.V.N.J.) (C.S.N.J.)
30.11.2022

nv

https://www.mhc.tn.gov.in/judis

WEB COPY

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

nv

C.M.A. Nos. 2626 & 2630 of 2022

30.11.2022

https://www.mhc.tn.gov.in/judis