IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.44 of 2023

M/s.Heidelberg India Private Limited,
Formerly EAC Graphics India Pvt. Ltd.,
rep. by its Director-Finance, Ravi Kannan,
208, Velachery Main Road,
Pallikaranai, Chennai-601 302. .. Appellant

Vs

1.The Appellate Tribunal for Foreign Exchange,
Janpath Bhawan, 4th Floor,
Janpath, New Delhi-110 001.

2.The Directorate of Enforcement,
Under the Foreign Exchange Management Act,
Ministry of Finance, Department of Revenue,
Government of India,
Room No.303, 3rd Floor,
C-12, Pratyaksha Kar Bhavan,
Bandra Kurla Complex, Bandra (E),
Mumbai (E), Mumbai-400 051. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 17.8.2022 passed in W.P.No.25075 of 2008.

For the Appellant	:	Mr.R.Anish Kumar
For the Respondents	:	Mr.Rajnish Pathiyil Special Public Prosecutor for respondent No.2

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

This writ appeal has been directed against the order dated 17.8.2022 passed in W.P.No.25075 of 2008, whereby the learned Single Judge after quashing the order dated 7.7.2005 passed by the second respondent and the consequential order dated 27.12.2007 passed by the first respondent, remanded the matter to the file of the second respondent with a direction to issue a fresh show cause notice to the appellant within a period of four weeks from the date of receipt of a copy of the said order. The appellant was directed to submit its explanation within four weeks from the date of receipt of the show cause notice and liberty was granted to the appellant to raise all the grounds both on facts and law.

2. Mr.R.Anish Kumar, learned counsel appearing for the appellant, would submit that when the goods were despatched by the supplier under B/L No.STL/BOM/07140 on 19.6.1996 and the same were cleared from the Indian Customs by the appellant's predecessor, namely, M/s.EAC Graphics India Private Limited, the show cause notice ought to have been issued by the second respondent within three years from the date of import, but, in the present case, the notice has been issued on 16.5.2002, which is after a lapse of almost six years and, therefore, the show cause notice is barred by limitation.

3. Learned counsel appearing for the appellant was unable to produce any shred of material to substantiate his plea that the goods were despatched on 19.6.1996 by the supplier and thereafter cleared by the appellant's predecessor, so as to enable this court to consider the plea of limitation. This Court cannot enter into such factual aspects and the same have to be looked into by the second respondent/adjudicating authority.

4. In our considered opinion, the appellant's case has been rightly remanded by the learned Single Judge to the second respondent with liberty to the appellant to raise all the grounds both on facts and law. We, therefore, do not find any ground to interfere with the order passed by the learned Single Judge. However, we grant liberty to the appellant to raise the plea of limitation before the second respondent.

In the result, the writ appeal fails and the same is dismissed. There will be no order as to costs. Consequently, C.M.P.No.464 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
20.01.2023

Index : Yes/No
Neutral Citation : Yes/No
sasi

To

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T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

(sasi)

W.A.No.44 of 2023

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