14.05.2024
Item No.8
gd/ssd

MAT/624/2024
IA NO: CAN/2/2024
THE ADDITIONAL COMMISSIONER OF CUSTOMS, CC(P)
VS
KEFCO EXIM PVT. LTD. AND ORS.

Mr. Bhaskar Prosad Banerjee,
Mr. Tapan Bhanja
..for the Appellant.

Mr. Vinay Kr. Shraff,
Ms. Priya Sarah Paul,
Mr. Dev Kr. Agarwal
..for the Respondents.

1. The department's appeal before us being aggrieved by the order passed in WPA 116 of 2022 dated 14.12.2023 filed by the respondents herein wherein a prayer was made to direct the appellant/Customs Authorities to pay the writ petitioners the value of the goods in question as on the date of seizure which was seized on the ground of foreign origin and it was smuggled goods.

2. The respondent/writ petitioners filed a statutory appeal before the Commissioner of Customs (Appeals) against the order of adjudication which appeal was allowed by order dated 1st March, 2021.

3. By virtue of the said order, the seizure of the goods in question was held to be bad in law and the appeal was allowed along with consequential relief.

4. The department did not challenge the order passed by the Commissioner of Customs (Appeals) before the learned tribunal.

5. Thus, the order of the Commissioner of Customs (Appeals) dated 1st March, 2021 having become final, the appellant/department is bound to return the value of the goods since the goods in question have already been destroyed as being unfit for human consumption.

6. The appellant having already fixed the value of the goods as could be seen from the seizure list drawn on 23.12.2019 fixing a value of Rs.14,82,000/-, the appellant/department is directed to pay the respondent/writ petitioners the said sum of Rs.14,82,000/- within a period of six weeks from the date of receipt of the server copy of this order.

7. Mr. Banerjee, learned senior standing counsel appearing for the department submitted that after the goods were imported and seized and option of provisional release is granted to the respondent/writ petitioners on 23.06.2020 but the respondent/writ petitioners did not avail the opportunity.

8. Therefore, it is submitted that the value of the goods need not be refunded. This argument cannot be accepted for the simple reason that the respondent/writ petitioners succeeded before the Commissioner of Customs (Appeals) who not only

allowed the appeal and set aside the order of the adjudicating authority.

9. Therefore, the authority is also granted consequential relief which go to show that the appellant is entitled to payment of the value of the goods which has been seized and presently destroyed.

10. With the above reasons, the appeal is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)