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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2024

CORAM :

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
and
THE HONOURABLE **MR.JUSTICE G. ARUL MURUGAN**

W.A.No.253 of 2013
and M.P.No.1 of 2013

1. The Chairman,
   Central Board of Customs and Excise,
   North Block, New Delhi.

2. The Commissioner of Customs (Imports)
   Customs House, No.60 Rajaji Salai,
   Chennai – 1.

3. The Assistant Commissioner of Customs (CHA Section)
   Customs House, No.60 Rajaji Salai,
   Chennai – 1.

.... Appellants

vs

M/s.V.Pitchiyya
No.4/221, Type F, 4th Main Road,
Sidco Nagar, Villivakkam,
Chennai – 600 049.

.... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent against order dated 01.11.2012 passed by in W.P.No.27800 of 2012 on the file of this Court.

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For Appellants : Mr.A.P.Srinivas
Senior Standing Counsel

For Respondent : No appearance

JUDGMENT
(Delivered by Dr. ANITA SUMANTH.,J)

There is no appearance for the respondent and we have heard Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for the appellants.

2. The Writ Petitioner/respondent had sought a mandamus directing the Commissioner of Customs to issue a Customs House Agents (CHA) Licence in terms of Regulation 9 of the Customs House Agents Licensing Regulations (CHALR), 2004 to the petitioner.

3. The Writ Petitioner had admittedly qualified in the examination conducted in terms of CHALR 1984. It was his grievance that the qualification obtained by him in the CHALR 1984 would suffice and there could be no further requirement from the side of the Department insisting upon his qualification under the subsequent Circular dated 23.02.2004 as well.

4. The Writ Petition came to be allowed, assailing which the Central Board of Direct Taxes and the Customs authorities are in appeal.

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5. We find that the issue is covered by decisions of the Division Benches of this Court in *Commissioner of Customs V. G. Saravanan* (W.A.No.410 of 2012 dated 10.06.2013) and *Chairman, Central Board of Excise and Customs and two others V. R.Chandrasekaran* (W.A.No.42 of 2013 decision dated 22.08.2017). The Division Bench, in the latter case, has referred to the judgment of the Supreme Court in *Union of India V. Ravindra K.Joshi* ((2013 (291) ELT 481) and a communication from the Customs Department dated 05.04.2013 to the effect that the judgment the Supreme Court in C.A.Nos.4053 to 4061 of 2012 have been accepted by the revenue.

6. Paragraph 23 of the aforesaid order reads thus:

> *"23. In Union of India Vs. Ravindra K.Joshi reported in 2013 (291) E.L.T. (S.C.), taking note of the communication dated 05.04.2013, that the view of the Sunil Kohli's case has been accepted by the Department and that the Revenue has issued Circular No.06/2013 dated 06.02.2013, the Hon'ble Supreme Court has ordered here under:*
>
> > *8. By the communication dated 5-4-2013, the Central Board of Customs and Excise has informed Shri Prasad, that the revenue has accepted the view expressed by this court in Sunil Kohli's case and accordingly they have issued a Circular No.06/2013 dated 6.2.2013.*
> >
> > *9. The instructions so received by Shri Prasad reads as under:*
> >
> > > *" Now, subsequent to order in C.A. Nos.4053-4061 of 2012 in the case of Sunil Kohli & Ors. v. Union of India and Ors., vide order dated 27-4-*

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2012, C.B.E. & C. has issued Circular No.06/2013 thereby deleting para 8.1 and 802 of Circular No.09/2010- Customs dated 8.4.2010. Thus need of passing a special examination for Regulation 9 candidates of earlier regulation (CHAIR, http://www.judis.nic.in 14 1984) no more exists for consideration of fresh licence. Hence, it is stated that the issues involved in both the cases viz. SLP (C) Nos.6026/2012 and 5143/2012 are similar and Circular No.06/2013 which addresses the concern of the appellants may be brought to the notice of the Apex Court during the hearing of the appeals."

10. In view of the information received by Shri Prasad, he would submit that the issues raised in these appeals are squarely covered by the decision of this Court in Sunil Kohli's case (supra).

11. Following the judgment and decision of this Court in Sunil Kohli's case (supra) all these appeals are disposed of in the same terms, observations and directions.

12. In view of the decision of this Court in Sunil Kohli's case (supra), the judgment(s) and order(s) passed by the Bombay High Court are set aside. 13. Ordered accordingly."

7. In the interests of completion, the Circular is also been extracted below:

Circular No.6/2013-Cus., dated 6-2-2013
F.No.494/4/2012-Cus.VI

Government of India
Ministry of Finance (Department of Revenue)
Central Board of Excise & Customs, New Delhi

Subject : Issue of Custom House Agent Licence.

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Attention is invited to Board's Circular No.9/2010-Customs, dated 8.4.2010 [2010 (252) E.L.T. T29] on the above said subject.

2. The Hon'ble Supreme Court in Civil Appeal Nos.4053-4061 of 2012 [arising out of SLP (C) Nos.19124-19132 of 2010] in the case of Sunil Kohli and others v. Union of India and others vide order dted 27-4-2012 [2012 (285) E.L.T. 481 (S.C.)] has held that those who had passed the examination under Customs House Agents Licensing Regulations, 1984 not have to again appear for examination under the Customs House Agents Licensing Regulations, 2004 (CHALR 2004).

3. In order to implement the aforementioned decision of Hon'ble Supreme Court, Board has decided to delete Para 8.1 and Para 8.2 of Circular No.9/2010-Customs, dated 8.4.2010. The implication of this modification of Board Circular No.9/2010-Customs, dated 8.4.2010 is that the Custom shall no longer insist that persons who have passed the examination under the 1984 Regulations have to additionally qualify in the new subjects given below.

(a) The Patents Act, 1970 and Indian Copyright Act, 1957;

(b) Central Excise Act, 1944

(c) Export Promotion Schemes

(d) Procedure on appeal and revision petition

(e) Prevention of Corruption Act, 1988

(f) Online filing of electronic Customs declarations

(g) Narcotic drugs and Psychotropic Substances Act, 1985; and

(h) Foreign Exchange Management Act, 1999"

Thus, subject to fulfillment of all others requirements such persons will now be directly eligible for grant of CHA Licence.

4. These instructions may be brought to the notice of the trade by issuing suitable Trade/Public Notices. Suitable Standing orders/instructions may be issued for the guidance of the field officers. Pending court cases, if any, may also be suitably handled.

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5. Difficulties faced, if any, may be brought to the notice of the Board immediately."

8. A combined reading of the aforesaid would make it more than abundantly clear that there is no requirement for those who have been successful in the examination prescribed under CHALR 1984 to appear for subsequent tests again per the CHALR 2004.

9. In light of the aforesaid, there is no merit in this Writ Appeal and the same stands dismissed. No costs. Connected Miscellaneous Petition is also dismissed.

[A.S.M., J] [G.A.M., J]
22.11.2024

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Index:Yes/No
Neutral Citation:Yes
Speaking order

W.A.No.253 of 2013
and M.P.No.1 of 2013