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C.M.A.Nos.3713 & 3715 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 18.10.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR  
AND  
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**C.M.A.Nos.3713 & 3715 of 2021  
and C.M.P.No.21802 of 2021**

The Commissioner of Customs  
Chennai II Commissionerate  
Customs House, No.60, Rajaji  
Salai, Chennai 600 001.

... Appellant in both appeals

Vs.

M/s.Soni Sales Corporation  
No.63, SRS Complex, Siddanna Lane  
Bangalore 560 002, Karnataka.

... Respondents in both appeals

Appeals under Section 130 of the Customs Act to set aside the Final Order Nos.40494 and 40495 of 2018 dated 27.02.2018 passed by the CESTAT, South Zone Bench, Chennai.

For Appellant : Mr.A.P.Srinivas, Senior Standing Counsel  
For Respondent : Mr.S.Muthuvenkataraman

**J U D G M E N T**

(Delivered by R.SURESH KUMAR,J.)

The following substantial questions of law are raised in these appeals:

*"(i) When jurisdictional High Court Judgments are available upholding the competency of the DRI to issue show cause notice under Section 28 of the Customs Act 1962, whether the CESTAT is correct in remanding the appeal?"*



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(ii) *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?."*

2.Learned Senior Standing Counsel appearing for the appellant Revenue as well as Mr.S.Muthuvenkataraman, learned counsel for the respondent / assessee would submit that the issue raised in these appeals is covered by the decision of the judgment of a Division Bench of this Court dated 08.07.2022 made in C.M.A.Nos.1520 of 2018 etc., batch.

3. We have perused the said judgment of the Co-ordinate Bench, where, the Division Bench has passed the following order:

*" 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 initiate 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.*



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*Consequently, the substantial questions of law are left open. No costs. Connected Miscellaneous Petitions are closed."*

4. In view of the same, these appeals are also allowed in terms of the said judgment dated 08.07.2022 in terms of Para 9 extracted herein above. Accordingly, these appeals are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**(R.S.K.,J.) (C.S.N.,J.)**  
**18.10.2024**

NCS : Yes/No  
Index : Yes/No  
KST

To

The CESTAT  
South Zonal Bench, Chennai 600 006.



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**R.SURESH KUMAR, J.**  
**AND**  
**C.SARAVANAN, J.**

KST

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**18.10.2024**