

(1996) 09 MAD CK 0113

In the Madras High Court

Case No : W.A. No. 889/96 and C.M.P. 13035 of 1996

Asstt. Commissioner of Customs, Tuticorin

APPELLANT

Vs

Neo Intex Mills Ltd.

RESPONDENT

Date of Decision : 26-09-1996

Acts Referred:

Citation : (1997) 57 ECC 171 : (1997) 91 ELT 274

Hon'ble Judges : Raju, J;K.A. Swami, J

Bench : Division Bench

Advocate : Shri K. Jayachandran, Additional Central Govt. Standing, for the Appellant;

Judgement

1. The order under appeal passed by the learned single Judge does not in any way affect the interests of the Customs Department, inasmuch as the direction issued by the learned single Judge reads thus :-

"In view of the above, the respondents are directed to implement the order of the Customs, Excise and Gold (Control) Appellate Tribunal, South Zonal Bench, Madras in Appeal NOC/V-129/96/Md & C/V-130/96/Md, dated 18-5-1996 in accordance with law, within one week from the date of receipt of the copy of this order. It is open to the respondents to direct the petitioner to execute necessary customs surety or security bond to safeguard the interest of revenue to cover the disputed amounts, in case the contention of the revenue is accepted in appeal."

Thus, if the appellants succeed before the Supreme Court, the respondent is liable to reimburse. Even otherwise, before the order of the Tribunal is implemented pursuant to the direction of the learned single Judge, if the appellants are able to secure the interim order from the Supreme Court, the question of implementing the order of the Tribunal does not arise. Whatever it may be, the learned single Judge has further safeguarded the interest of the appellants by enabling them to direct the writ petitioner to execute the necessary customs surety or security bond to safeguard the interest of the Revenue to

cover the disputed amounts in case the contention of the appellants is accepted in appeal. That means, the Customs Department can very well insist for the solvent surety of the value sufficient to meet the amount involved in the case. It is not a mere personal bond. Unless the required surety with solvency certificate is furnished and accepted, the question of implementing the order of the Appellate Tribunal as directed by the learned single Judge does not arise.

2. With the above observations, the appeal is dismissed. However, the time allowed by the learned single Judge for implementing the order of the Tribunal is extended by two weeks from today.

3. C.M.P. No. 13035 of 1996 is also dismissed.