(2015) 02 KAR CK 0423

In the Karnataka High Court

Case No : C.E.A. Nos. 50 and 53 of 2014

Big Bags International Pvt. Ltd. — APPELLANT

Vs

Commissioner of C. Ex. — RESPONDENT

Date of Decision : 05-02-2015

Acts Referred:

Citation : (2015) 320 ELT 56

Hon'ble Judges : N. Kumar, J;B. Veerappa, J

Bench : Division Bench

Advocate : B.N. Gururaj and Goutham Gururaj, for the Appellant; Jeevan J. Neeralgi, Advocates for the Respondent

Judgement

N. Kumar, J.

1. The appellant herein has challenged the order passed by the Tribunal declining to grant a stay of the order passed by the Commissioner of Central Excise (Appeals) classifying Flexible Intermediate Bulk Containers under 3993 and 2990 of the Schedule to the Central Excise Tariff Act, 1985. The appellant contends that it should be classified under 6305 and 3200, which is a specific entry. In the appeal filed against such classification, the Tribunal spent considerable amount of time in hearing the matter, though on an application for stay. Thereafter, they decided to hear the matter finally and after directing the matter to be listed for final hearing on 6-5-2014, they declined to grant stay. If the Tribunal had heard the matter on 6-5-2014 and decided one way or the other, we would not have found fault with the order passed by the Tribunal. But unfortunately, due to heavy pendency of appeals, till today, the appeal is not taken up for hearing.

2. In those circumstances, the appellant is before this Court. The dispute is regarding classification. As set out by the appellant, because of the classification, he is put into loss and inconvenience especially with the foreign buyers. Under these circumstances, the status-quo is to be maintained till the dispute is resolved by the Tribunal one way or the other. The proper course would be that

the Tribunal shall hear the matter expeditiously, within three months from today. But till such time, the order passed by the Commissioner, shall not be given effect to. Hence, we pass the following order:

(a) Appeals are partly allowed.

(b) The Tribunal is directed to consider the appeal finally as directed by them in the impugned order.

(c) Till the appeal is decided, the order passed by the Commissioner is stayed.