
(1992) 10 MAD CK 0015

In the Madras High Court

Case No : Writ Petition No's. 14927 and 16145 of 1992

Care International

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 29-10-1992

Acts Referred:

Citation : (1993) 63 ELT 232

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Advocate : Shri R. Thiagarajan for M.M. Muthappan, for the Appellant; Shri C.A. Sundaram, ACGSC, for the Respondent

Judgement

Srinivasan, J.—In these matters, initially two orders were passed, one by the Assistant Collector of Customs fixing the value of the goods

and another by the Additional Collector of Customs who considered the licence angle and passed an order that there was a misdeclaration of the

value and directed confiscation of the goods. The petitioner in W.P. No. 16145/92 challenged the said orders in imposing certain conditions for he

release of the goods and directing the petitioner to file appeal against the order of adjudication. The petitioners preferred appeals against the orders

of the Assistant Collector and Additional Collector referred to above. The Appellate Authority allowed the appeals and remanded the matter

taking the view that two different authorities cannot pass different orders on the same matter and consequently, the Appellate Authority directed

the lower authority to consider all the aspects of the matter by one order and it further directed that one competent authority shall dispose of the

matter. Thereafter W.P. No. 16145 of 1992 has been filed by the petitioner for the issue of a mandamus directing the respondent to assess the bill

of entry bearing No. 21747 dated 26-6-1992.

2. In the other writ petition W.P. No. 14927 of 1992, the facts are similar and the prayer is for the issue of a mandamus with respect to bill of

entry bearing No. 16708 dated 18-5-1992.

3. Learned counsel for the petitioners contends that out of the two orders passed earlier, later order passed by the Additional Collector of

Customs was a nullity and the first order would prevail. According to learned counsel, assessments shall be made on the basis of the value arrived

at in the first order. Reliance is placed on paragraph 7 of Chapter 3 of Central Appraising Manual, Volume V. Under that paragraph, it is stated

that if a matter has already been adjudicated by the competent authority and another order of adjudication is passed relating to the same

transaction subsequently, the second order is a nullity.

4. I am unable to agree with the above contention. If there had been no appellate order, the position might be different. But here, there are recent

orders passed by the Appellate Authority on appeals preferred by the petitioner. In fact, the petitioners preferred two appeals and challenged both

the orders of the authorities of the first instance. Now that the orders have been set aside by the Appellate Authority, it is not open to the

petitioners to contend that the earlier order will stand and later order is a nullity. Admittedly, the petitioners preferred appeals before the Tribunal

challenging the correctness of the orders of the Appellate Authority. It is open to the petitioners to raise all available contentions before the Tribunal

and it is for the Tribunal to consider such contentions and pass appropriate orders in accordance with law.

5. The facts of these cases warrant an early disposal of the appeals preferred by the petitioners before the Tribunal. It is expected that the Tribunal

will dispose of the appeals within two (2) months from this date, so that the parties will know of their position clearly and not accordingly. The writ

petitions are dismissed with the above observations. There will be no order as to costs.