(2014) 12 MAD CK 0086

In the Madras High Court

Case No : Writ Appeal No. 1197 of 2014 and M.P. Nos. 1-2 of 2014

Commr. of Cus. (Seaport-Export) APPELLANT

Vs

J. Sheik Parith RESPONDENT

Date of Decision : 16-12-2014

Acts Referred:

Citation : (2015) 317 ELT 31

Hon'ble Judges : Satish K. Agnihotri, J;K.K. Sasidharan, J

Bench : Division Bench

Advocate : Haja Mohideen Gisthi, Advocates for the Appellant; A.R.L. Sundaresan, Senior Counsel for K. Sridhar, Advocates for the Respondent

Judgement

1. The appellants are aggrieved by the direction issued by the learned Single Judge to release the goods subject to deposit of 40% of the differential duty and to execute bond for the remaining amount. The goods imported by the first respondent was seized by the appellants alleging discrepancies. The appropriate authority issued a show cause notice to the first respondent. The notice was challenged by the first respondent in W.P. No. 899 of 2013.

2. The first respondent filed W.P. No. 16186 of 2014 for a direction to release the goods pending adjudication proceedings. The learned Single Judge allowed the writ petition with certain conditions. Feeling aggrieved by such conditions, the Customs Department is before us.

3. We have heard the learned Standing Counsel for the appellant and the learned Senior Counsel for the first respondent.

4. The first respondent imported Sony Brand LCD/LED Television sets of different models along with its accessories vide bill of entry No. 4565925, dated 6 September 2011. The appellants seized the imported goods alleging mis-declaration, non-declaration and under valuation of goods. The Directorate of Revenue Intelligence issued a show cause notice dated 22 December 2011. The first respondent in the meantime filed the writ petition in W.P. No. 16186 of 2014

for a direction to release the goods pending adjudication proceedings. The writ petition was allowed with certain conditions.

5. The only question that arises for consideration is whether the first respondent has made out a case for release of goods pending adjudication proceedings.

6. The learned Single Judge protected the interest of the department by directing the first respondent to pay 40% of the differential duty as assessed by the department. The first respondent was directed to execute a bond for 100% of the value assessed by the department. The learned Single Judge has referred to the decisions of the Supreme Court while directing the appellants to release the goods.

7. We have perused the show cause notice issued by the Directorate of Revenue Intelligence and the decisions cited by the respective parties. We are of the view that interest of justice would be subserved by directing the first respondent to pay 50% of the differential duty instead of 40% as a condition precedent for releasing the goods during the currency of the proceedings.

8. Accordingly in modification of the order passed by the learned Single Judge, the appellants are directed to release the goods subject to payment of 50% of the differential duty as assessed by the department. All other conditions imposed by the learned Single Judge would remain without any change. The appellants are directed to release the goods within a period of one week from the date of payment of 50% of the differential duty and execution of bond as indicated in paragraph 8 of the order passed by the learned Single Judge.

9. The learned counsel for the appellants submitted that the writ petition in W.P. No. 899 of 2013 is pending before the writ court. According to the learned counsel, in view of the interim order in the said writ petition, the authorities are not in a position to take up the adjudication process. The learned counsel for the first respondent, who is the petitioner in W.P. No. 899 of 2013 submitted that he would co-operate for an early disposal of the matter. We give liberty to the appellants to approach the Registry for an early listing of the matter. We request the learned Single Judge to take up the matter as expeditiously as possible. The writ appeal is disposed of with the above direction. Consequently, the connected MPs are closed. No costs.