(2014) 03 CAL CK 0146

In the Calcutta High Court

Case No : W.P. No. 190 of 2014

Excel Import Pvt. Ltd. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 21-03-2014

Acts Referred:

Citation : (2014) 305 ELT 388

Hon'ble Judges : Harish Tandon, J

Bench : Single Bench

Advocate : R.K. Chowdhury, S.B. Saraf and T.M. Siddiqui, Advocate for the Appellant

Judgement

Harish Tandon, J.—On a reasonable doubt having raised by the customs authorities as to the transaction value shown in the bill of entry at the time of import, the petitioner prayed for a provisional release of the said goods. No steps were taken by the authorities. The petitioner approached this Court in W.P. No. 628 of 2013. By an order dated 16th July, 2013, the said writ petition was disposed of directing the concerned respondent to make a provisional assessment within the specified time and the petitioner was further directed to deposit with the authorities the customs duty payable on the value declared by them. The petitioner was further directed to furnish a bank guarantee of the differential duty after the provisional assessment is made by the customs authorities and in addition thereto shall also submit the P.D. Bond. The grievance of the petitioner is that after the provisional assessment the petitioner submitted bank guarantee for a substantial amount and get the consignments provisionally released but thereafter no steps are being taken for the final assessment.

2. Mr. Chowdhury, learned advocate for the petitioner submits that Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 postulates that if the authorities has reason to doubt the truthfulness of the accuracy of the value declared in relation to the imported goods, they can ask for certain documents and other evidence and after scanning those, if doubt

remains, the authorities are bound to serve the notice in writing and afford an opportunity of hearing before proceeding to determine the valuation. Mr. Chowdhury further submits that after the provisional assessment, the authorities are keeping silent and have not activated themselves in taking any steps provided under Rule 12 of the aforesaid Rules. It is further submitted that Rule 3 of the said Rules which is subject to Rule 12 further postulates that the authorities have to accept the value of the imported goods to be the transaction value provided the conditions incorporated therein are fully and substantially satisfied.

3. The learned advocate for the respondents could not apprise the Court whether any attempt is made by the respondent authorities in proceeding to determine the value provided under Rule 12 of the said Rules. The apprehension of Mr. Chowdhury is not unfounded that his client has been saddled with enormous amount to be kept in deposit of the bank for the purpose of the bank guarantee. The authorities cannot keep silence over the matter and are to be reminded of their statutory responsibility.

4. This Court, therefore, feels that the justice would be sub-serve if the respondent authorities are directed to activate themselves in determining the value under Rule 12 of the said Rules and to make a final assessment.

5. This Court, therefore, directs the respondent No. 1 to take steps for final assessment of the duty which in no circumstances should exceed three weeks from the date of communication of this order. Needless to mention that while making a final assessment the authorities would adhere to the statutory procedures and the norms and shall see that the natural justice is not violated. With these observations, the writ petition is disposed of without any order as to costs.