(1988) 02 BOM CK 0039

In the Bombay High Court

Case No : Writ Petition No. 3580 of 1987

Godhwani Brothers — APPELLANT

Vs

The Assistant Collector of Customs and Another — RESPONDENT

Date of Decision : 02-02-1988

Acts Referred:
Customs Act, 1962 — Section 14(1)(a)

Citation : (1988) 16 ECR 388

Hon'ble Judges : S.C. Pratap, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.C. Pratap, J.—While this petition has been pending in this Court, the Assistant Collector of Customs has made an order dated 1st February, 1988 fixing the value of the goods in question at U.S.$ O.87 per pound for the purpose of assessment u/s 14(1)(a) of the Customs Act, 1962. A copy of the said order has been furnished to the petitioner only yesterday evening.

2. Against the said order, an appeal lies to the Collector of Customs (Appeals), Bombay. I see no good reason why the petitioners, if aggrieved by the said order, should not prefer appeal as provided by the Statute, all the more when such an appeal is a full-fledged appeal on facts, law and evidence.

3. However, for the gross delay of over five years of the respondents in deciding the matter pursuant to the remand order of 20th July, 1982, there is good justification for permitting the petitioners to prefer appeal, if so advised, against the order of 1st February, 1988 without any pre-condition. There is also good justification for directing the respondents to decide the appeal, if so preferred, within forty five days of the same being filed.

4. The petitioners'' learned Counsel states that the petitioners will be filing appeal against the order of 1st February, 1988 expeditiously.

5. Hence order:

(a) The Appellate Authority is directed to hear and decide the appeal in question within forty five days of the same being filed.

(b) If, for no fault of the petitioners, there is delay in the disposal of the appeal beyond the aforesaid directed period, the petitioners will then be at liberty to move this Court to direct the respondents to refund the amount, if any, found due to the petitioners with interest thereon at the rate of 15 per cent per annum from the date of the original recovery till actual payment.

6. In view of the aforesaid observations and directions, this petition is allowed to be withdrawn.

