(2016) 06 MAD CK 0090

In the Madras High Court

Case No : Writ Petition Nos. 19960-19962 of 2016 and W.M.P. Nos. 17212-17214 of 2016

Rabiya Bee APPELLANT

Vs

Principal Commr. of Cus. (Airport), Chennai RESPONDENT

Date of Decision : 17-06-2016

Acts Referred:

Citation : (2016) 339 ELT 207

Hon'ble Judges : T.S. Sivagnanam, J.

Bench : Single Bench

Advocate : Shri T. Chezhiyan, Counsel, for the Petitioner; Shri Vikram Ramakrishnan, Standing Counsel, for the Respondent

Final Decision : Disposed Off

Judgement

T.S. Sivagnanam, J.—Heard both. By consent, the writ petitions are taken up for final disposal.

2. In these writ petitions, the petitioners seek a direction to the first respondent to implement the orders passed by the third respondent.

3. A show cause notice was issued to the petitioners calling upon them to show cause as to why the gold jewellery seized from them should not be confiscated and why penalty should not be imposed. The petitioners submitted their reply and an order was passed by the Adjudicating Officer on 30-4-2015, absolutely confiscating the jewels and imposing penalty on the petitioners.

4. As against the said order, the petitioners preferred appeals before the Commissioner (Appeals), who, by orders dated 30-9-2015, allowed the appeals and directed the jewels to be returned and imposed a penalty of Rs. 10,000/- on each of the three writ petitioners. Since this order was not implemented, the petitioners have come up with the above writ petitions.

5. The learned Standing Counsel for the respondents submitted that challenging

the orders passed by the Commissioner (Appeals) dated 30-9-2015, the Department filed revision applications before the Joint Secretary (Revision Application), Ministry of Finance, Department of Revenue, New Delhi and the papers have been dispatched on 11-5-2016. To prove the same, a letter written by the Assistant Commissioner of Customs, Review Cell dated 9-5-2016 has been produced. It is further submitted that the orders passed by the Commissioner (Appeals) dated 30-9-2015 were received by the Department only on 3-2-2016.

6. After hearing the learned counsel for the parties and perusing the materials placed on record, it is seen that the orders were passed by the Commissioner (Appeals) in September 2015, they have been dispatched on 17-10-2015 and the petitioners received the same. However, the respondents seek to take note of the date of receipt of the orders by the Review Cell i.e. 3-2-2016.

7. Be that as it may, till date, the orders passed by the Commissioner (Appeals) have not been reversed or modified or stayed and even according to the respondents, the Review Cell received the orders on 3-2-2016, but they did not take any steps to file revisions till May 2016. Therefore, this is a fit and proper case where a direction should be issued to the respondents to implement the orders passed by the Commissioner (Appeals) subject to certain other conditions also.

8. In the light of the above, the writ petitions are disposed of directing the second respondent to return the jewels in question forthwith subject to the petitioners paying fine and penalty, if any ordered by the Commissioner (Appeals) and executing a bond to produce the jewellery before the Department in the event of the revision applications filed before the Revisional Authority are allowed. The above direction shall be complied with within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the above MPs are closed.