(2013) 07 MAD CK 0406

In the Madras High Court

Case No : W.P. No. 16778 of 2013

Sabari Exim Pvt. Ltd.	APPELLANT
Vs	
Commr. of Cus. (Seaport-Import), Chennai-I	RESPONDENT

Date of Decision : 10-07-2013

Acts Referred:

Citation : (2014) 303 ELT 61

Hon'ble Judges : K.K. Sasidharan, J

Bench : Single Bench

Judgement

K.K. Sasidharan, J.—This writ petition is directed against the order dated 13-6-2012, on the file of the 2nd respondent whereby and whereunder the statutory appeal preferred by the petitioner was rejected by way of a non-speaking order. According to the petitioner, the 1st respondent initiated proceedings under the pretext that the goods imported by the concern was not "re-rollable scrap" and as such the claim made to pay duty at a particular rate was not correct. In short the 1st respondent alleged act of misdeclaration against the petitioner. The 1st respondent passed an order on 30-7-2004. The said order was challenged before the 2nd respondent. The 2nd respondent by way of a very brief order dismissed the appeal. The said order is challenged in this writ petition.

2. I have heard the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

3. The petitioner filed a statutory appeal before the 2nd respondent. The 2nd respondent was expected to consider the appeal memorandum in the light of the order passed by the original authority. However, very strangely, the 2nd respondent recorded that the adjudicating Commissioner has taken an appropriate view in determining levy of redemption fine and penalty which calls for no interference. The order does not contain any indication that the merits of the matter was considered by the 2nd respondent.

4. The authorities while exercising quasi-judicial functions must record reasons in

support of their conclusion. It is not necessary to pass a lengthy order. In case, reasons are supplemented it would enable the appellate and revisional authorities to ascertain the materials considered by the authority in arriving at a decision in a particular manner. In case reasons are not furnished in the order, it would result in failure of justice.

5. The Hon''ble Supreme Court in Union of India (UOI) and Others Vs. Jai Prakash Singh and Another, indicated the necessity to state reasons thus:

7. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court''s judgment not sustainable.

8. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union, 1971 (1) All E.R. 1148, observed: "The giving of reasons is one of the fundamental of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree, 1974 LCR 120, it was observed: "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx". It Can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason in an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.

6. In the result, the impugned order dated 13-6-2012 is set aside and the matter is remitted to the 2nd respondent for fresh consideration. The 2nd respondent is directed to consider the matter afresh on merits and as per law after giving an opportunity of hearing to the petitioner. The writ petition is allowed to the extent indicated above. No costs. Consequently, the connected Miscellaneous Petition is closed.

