(2015) 01 AHC CK 0172

In the Allahabad High Court

Case No : Writ Tax No. 72 of 2015

Sanjivani APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 28-01-2015

Acts Referred:
Customs Act, 1962 — Section 17, 17(4), 17(5)

Citation : (2015) 325 ELT 571

Hon'ble Judges : Tarun Agarwala and Dr. Satish Chandra, JJ.

Bench : Division Bench

Advocate : M.P. Sarraf, for the Appellant; R.C. Shukla, S.S.C., for the Respondent

Judgement

1. We have heard Sri Navin Sinha, learned senior counsel along with Sri M.P. Sarraf for the petitioner and Sri R.C. Shukla, counsel for respondent Nos. 1, 2 and 3. The petitioners are importing aluminum waste and scrap and are paying customs duty on it. The petitioner contends that for the period August, 2013 to December, 2014 while importing the aluminum scrap, etc., the petitioner declared the value of the goods, as transaction value indicated in the invoice bills. According to the petitioner, this transaction value should be taken as the basis for any assessment made under Section 17 of the Act. The petitioner contends that, if the proper officer was satisfied with the self-assessment made by the petitioner, he was required to pass assessment/reassessment order on the duty payable by the petitioner under Section 17(4) of the Act and pass a speaking order under Section 17(5) of the Act. The petitioner contends that an oral order of enhanced duty was made by the proper officer, on which the petitioner deposited the enhanced duty as he was required to import the goods. The said enhanced duty was deposited by the petitioner under protest, which has been indicated in Paras 14 and 15 of the writ petition. The petitioner contends that the proper officer, namely respondent No. 2 was required to pass a speaking order on the reassessment of assessable value within 15 days from the date of reassessment of the bill of entries as required under Section 17(5) of the Act,

since the petitioner had not given any confirmation accepting such enhancement of assessable value.

2. Since no reassessment order has been passed under Section 17(5), the petitioner filed the present writ petition praying for refund as well as for a direction to the proper officer, i.e. respondent No. 2 to pass a speaking order as contemplated under Section 17(5) of the Customs Act, 1962.

3. The learned standing counsel for the department states that necessary order may be passed by the Court directing the proper officer to pass a reassessment order in terms of Section 17(5) of the Act.

4. In the light of the aforesaid admitted facts, which are not controverted at this stage, we dispose of this writ petition directing the competent officer to pass a speaking order on the reassessment of the assessable value within a period of four weeks from the date of presentation of certified copy of the order, as required under Section 17(5) of the Customs Act, 1962. The writ petition is, accordingly, disposed of.