(2014) 03 CAL CK 0046

In the Calcutta High Court

Case No : W.P. No. 79 of 2014

Sigma Power Product Pvt. Ltd. APPELLANT

Vs

Addl. Commr. of Customs RESPONDENT

Date of Decision : 21-03-2014

Acts Referred:

Citation : (2014) 304 ELT 19

Hon'ble Judges : Harish Tandon, J

Bench : Single Bench

Advocate : S. Meheta and K.K. Maity, Advocate for the Appellant

Judgement

Harish Tandon, J.—The customs authorities have raised a reasonable doubt 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. For no steps 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. Meheta, 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 have reasons to doubt the truthfulness or 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 for determination of the valuation. Mr. Meheta 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. Meheta 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 subserve 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. 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 principle of natural justice is not violated. With these observations, the writ petition is disposed of without any order as to costs.