(2011) 09 SC CK 0174

In the Supreme Court Of India

Case No : Civil Appeal No. 3554 of 2006

Union of India APPELLANT

Vs

Riyazuddin Kureshi RESPONDENT

Date of Decision : 14-09-2011

Acts Referred:
Constitution of India, 1950 — Article 133

Citation : 2012 (10) SCC 599 =

Hon'ble Judges : D.K. Jain and Sudhansu Jyoti Mukhopadhaya, JJ.

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Challenge in this appeal, by special leave, is to final order dated 12th January, 2006, passed by the High Court of Judicature at Bombay in Writ Petition No. 2840 of 2005 [2016 (334) E.L.T. 393 (Bom.)]. By the impugned order, the High Court has dismissed the writ petition preferred by the Revenue against the order passed by the Settlement Commission, settling the dispute with regard to the valuation of the goods imported by the respondent.

2. Having heard learned counsel for the parties, we are of the opinion that this appeal is bereft of any merit.

3. In the impugned order, the High Court has recorded that even before the Settlement Commission had passed the order, the respondent-assessee had already deposited the differential amount of customs duty. Taking this factor into consideration, the High Court declined to go into the merits of the order passed by the Settlement Commission.

4. Bearing in mind the object and the scope of the powers of the Settlement Commission, after it decides to proceed with an application before it, we feel that the view taken by the High Court cannot be faulted with.

5. At this juncture, it is pointed out that while staying the refund of the excess

amount, stated to have been paid by the respondent, the following order was passed on 24th April, 2007 :

"Stay of recovery subject to an undertaking being filed by competent officer on behalf of the Union of India stating that in the event of the petition being dismissed on merits they shall pay interest at the rate of 6% per annum. Undertaking to be filed within two weeks. If the undertaking in not filed the matter should be re-listed before the Court."

6. We have been informed by this office that the Revenue did no comply with this condition inasmuch as undertaking in terms of the order was not furnished by the competent officer on behalf of the Union of India. Since the Revenue failed to comply with the said order, obviously, there was no stay of refund of the excess amount paid by the respondent. Thus, the necessary corollary would be that direction with regard to the payment of interest at the rate of 6% per annum loses its efficacy.

7. Consequently, the appeal is dismissed in the above terms with no order as to costs.

