[3447]

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
THURSDAY ,THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA
WRIT PETITION NO: 11210 OF 2025

Between:

1. M/s RK Exim,, Rep by its Proprietor Mr. Udit Bansal Having residence at, R/o. H-No. 46, DLF Phase 3, Siris Road,Sector 24,, DLF Phase II, Gurgaon, Haryana - 122008

Petitioner

AND

1. Deputy Commissioner of Customs, Air Cargo Complex,, Hyderabad Customs Commissionerate, Shamshabad, Hyderabad 500 409
2. Principal Commissioner of Customs,, Room No. 808, 7th Floor, GST Bhavan, Hyderabad, Telangana 500004

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Direction or Order, particularly one in the nature of Writ of Certiorari calling for records and quashing

i.The Impugned Order dated 24.01.2025 passed by the Respondent No. 1 as the same is illegal and without jurisdiction;

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend operation of the Impugned Order which has finalised the provisional assessments of the 2 Bills of Entry filed in 2015 pending adjudication in the present Writ Petition, pending disposal of WP 11210 of 2025, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI PRAVEEN K NAIR Advocate for the Petitioner, SRI DOMINIC FERNANDES (senior standing counsel for CBIC) for the Respondents, the Court made the following.

ORDER

Heard Mr.Praveen K Nair, learned counsel for the petitioner.

Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent Nos.l and 2, who is present in the Court is directed to take notice and file counter within three weeks. Reply/rejoinder, if any, may be filed within two weeks therefrom.

List this case on 10.06.2025.

Learned counsel for the petitioner submits that the provisional assessment had taken place in June, 2015. The said provisional assessment was not finalized. The petitioner was put to personal hearing notice on 30.12.2024. The delay is unreasonable and even assuming that there exists no statutory limitation for undertaking aforesaid exercise, such unreasonable delay itself is a ground for interference. Apart from this, what should be the reasonable amount of time cannot be gone into and decided by the departmental authorities/forum. Reliance is placed on 2007 (217) E.L.T. 325 (S.C.) State of Punjab v. Bhatinda District Co-Op. Milk P. Union Ltd. Para 24 of the said judgment is highlighted for this purpose, which reads thus:

> "24.We are, however, not oblivious of the fact that ordinarily the writ court would not entertain the writ application questioning validity of a notice only, particularly, when the writ petitioner would have an effective remedy under the Act itself. This case, however, poses a different question. The Revisional Authority, being a creature of the statute, while exercising its revisional jurisdiction, would not be able to determine as to what would be the reasonable period for exercising the revisional jurisdiction in terms of Section 2l (l) of the Act. The High Court, furthermore in its judgment, has referred to some binding precedents which have been operating in the field. The High Court, therefore, cannot be said to have committed any jurisdictional error in passing the impugned judgment."

In this view of the matter, learned counsel for the petitioner submits that the petitioner is able to cross the hurdle of "entertainability of the petition despite availability of the statutory appellate remedy". Furthermore, learned counsel for the petitioner placed reliance on Para Nos.l5 to l7 of the aforesaid judgment, which reads thus:

> "15. Sub-section (l) of Section 11 empowers the Commissioner to extend the period of three years for passing the order of assessment wherefor reasons are required to be recorded in writing subject, however, to the maximum period of five years. Ordinarily, therefore, a period of three years has been prescribed for completion of the assessment in terms of the provisions of the Act. We may also notice that in cases where an assessment order is to be reviewed, the same should be done within a period of one year.
> 16. A bare reading of Section 2l of the Act would reveal that although no period of limitation has been prescribed therefore,

the same would not mean that the suo moto power can be exercised at any time.

17. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors."

In this view of the matter, learned counsel for the petitioner submits that even if no statutory time limit was prescribed to undertake the aforesaid exercise of assessment, the exercise should have been completed within reasonable time. The period of nine years, by no stretch of imagination, can be said to be a reasonable period. While passing the impugned Order-in-Original (OIO), dated 24.01.2024, learned authority has not considered the petitioner's objections in correct perspective and the aforesaid judgment of Punjab and Haryana High Court, relied upon by the petitioner, was not dealt with at all.

Considering the aforesaid and subject to hearing the other side, no coercive action be taken against the petitioner pursuant to the impugned OIO, dated 24.01.2025.

The question of maintainability/ limitation etc., will remain open.

SD/-S.MALLIKARJUNA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Deputy Commissioner of Customs, Air Cargo Complex,, Hyderabad Customs Commissionerate, Shamshabad, Hyderabad 500 409
2. Principal Commissioner of Customs,, Room No. 808, 7th Floor, GST Bhavan, Hyderabad, Telangana 500004 (RR 1 & 2 by RPAD)
3. One CC to SRI. PRAVEEN K NAIR Advocate [OPUC]
4. Two spare copies

HIGH COURT

PSKJ &
NNRJ

DATED:17/04/2025

LIST ON 10.06.2025

ORDER

WP.No.11210 of 2025

DIRECTION