

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE FIRST DAY OF MAY

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

AND

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION NO: 13937 OF 2025

Between:

M/s Loyal Trading Co., Reg Office at - 4-1-11236, Opp ST Georges Grammar High School, King Koti, Hyderabad Telangana - 500 001. Rep. by Mohit Raju Giani

Petitioner

AND

1. Assistant Commissioner of Customs, Air Cargo Complex, Hyderabad Customs Commissionerate, Shamshabad, Hyderabad - 500 409.
2. Principal Commissioner of Customs, Office at - Customs Commissionerate, Room No. 808, 7th Floor GST Bhavan, Hyderabad - 500 004.

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 a writ, order or direction, one more particularly in the nature of Writ of Certiorari.

i. Call for records and quash the Impugned Order, i.e., Order-In-Original No. '137/2024-25 ACC(HYD)' dated 04-01-2025 passed by Respondent No. 1 which was received by the Petitioner on 05-03-2025 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 petition, the High Court may be pleased to suspend operation of the Impugned Order which has finalised the provisional assessments of the Bills of Entry bearing numbers 8861599 dated 09/04/2015. 9459416 dated 04/06/2015 and 9793435 dated 04/07/2015 pending adjudication in the present Writ Petition, Pending disposal of WP 13937 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 RUSHEEK REDDY K V, Advocate for the Petitioner and Sri Dundu Sashank, representing

Sri DOMINIC FERNANDES (senior standing counsel for CBIC) Advocate for the Respondents, the Court made the following.

ORDER:

Mr. Rusheek Reddy K V, learned counsel for the petitioner.

Mr. Dundu Sashank, learned counsel representing Mr. Dominic Fernandes, learned Senior Standing Counsel for the CBIC, for the respondents, 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 on 19.06.2025 along with W.P.No.23508 of 2024.

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 12.06.2024, 09.07.2024 and 16.07.2024. 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 21(1) 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.15 to 17 of the aforesaid judgment, which reads thus:

“15. Sub-section (1) 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 21 of the Act would reveal that although no period of limitation has been prescribed therefor, 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 04.01.2025, 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 04.01.2025.

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

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**SD/-MOHD.ISMAIL
DEPUTY REGISTRAR**

SECTION OFFICER

To,

1. Assistant Commissioner of Customs, , Air Cargo Complex, Hyderabad
Customs Commissionerate, Shamshabad, Hyderabad - 500 409.
2. Principal Commissioner of Customs, Office at - Customs Commissionerate,
Room No. 808, 7th Floor GST Bhavan, Hyderabad - 500 004. (1 & 2 by
RPAD)
3. One CC to SRI RUSHEEK REDDY K V Advocate [OPUC]
4. Two spare copies

HIGH COURT

PSKJ & NNRJ

DATED:01/05/2025

List on 19.06.2025 along with W.P.No.23508 of 2024

ORDER

WP.No.13937 of 2025

DIRECTION

