

UNION OF INDIA AND ORS.

... Appe

llants

VERSUS

MANJU GOEL

... Resp

ondent

O R D E R

The respondent herein had imported Compact Fluorescent Lamps from M/s Ceyenergy Electronics Company (Pvt.) Limited, Sri Lanka. She claimed the benefit of Indo-Sri Lanka Free Trade Agreement (ISFTA) which has been entered into between the two countries. As per this trade agreement, free trade is allowed in respect of certain items, which include the goods in question as well. The customs authorities, however, nurtured a doubt as to whether the origin of the aforesaid goods was Sri Lanka, as according to them, it was possible that these goods were manufactured in China and had been imported to India via Sri Lankan route.

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Deputy

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purpose, the consignment was detained and Commissioner, Customs, issued notice to the respondent asking her to supply certain information.

When this process was still on and a final view had yet to be taken by the custom authorities, the respondent

Signature Not Verified

Digitally signed by
Meenakshi Kohli
Date: 2015.05.16

filed the writ petition in the High Court of Rajasthan under

13:50:44 IST

Reason:

Article 226 of the Constitution of India with

certain

prayers which included prayer for releasing of the goods as well. In the said writ petition notice was issued by the High Court to the appellants herein and they were given few opportunities to place on record the documents which could prove their claim to the effect that the goods in question had Chinese origin. It appears that after taking few adjournments, the appellants filed the additional counter affidavit in the High Court and in this additional affidavit they enclosed a communication from Sri Lankan authorities stating that the goods were originated from China. It was disputed by the respondent.

The High Court, after hearing the matter, disposed of the writ petition vide impugned judgment dated 02.03.2005 directing the appellants to release the goods on provisional basis on the condition that the respondent herein would deposit the amount of custom duty and would also furnish a bank guarantee of 20 per cent of the value of the goods in question and for the balance value of the goods, she would furnish a personal bond to the satisfaction of the concerned authority in the Customs Department. Operative portion of the judgment reads as under: -

"However to protect the interest of revenue, we direct that the goods in question be released on provisional basis within two weeks from the date of receipt of this order, provided that the petitioner deposits the amount of CD and furnish bank guarantee of 20% of the value of the goods in question and for the balance value of goods, furnish a personal bond to the satisfaction of concerned authority in the

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Customs Department.

The petition stands disposed of with the above directions."

It is this judgment which is the subject matter of the present appeal. It is clear from the aforesaid direction that the respondent was allowed to get the goods released on provisional basis with certain conditions. We are informed that after the passing of this aforesaid direction by the

High Court, the Respondent had even got the goods released after complying with the directions of the High Court. In these circumstances, nothing survives in the present appeal. Otherwise also, there is no reason to interfere with the order in question, when the arrangement made by the High Court in the said order was only provisional one by way of interim arrangement.

We are informed that the custom authorities have already issued show cause notice on 22.07.2008. The respondent had reacted to the said notice by pointing out that the present appeal was pending in this Court.

In view of the stand taken by the appellant in the additional affidavit and the show cause notice, it would be appropriate for the customs authorities to proceed with the said show cause notice and decide the case on merit. We would like to point out here that the respondent herein had not only contested the averments made in the additional

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affidavit with a plea that the certificate which was received from the Sri Lankan authorities pertains to some other party, the respondent has also filed some more documents on the basis of which it is claimed that the matter has to be given a quietus. All such defences would be open to the respondent which the respondent can take in reply to the show cause notice including the plea of limitation as it is submitted that even as per those documents in the additional affidavit, the respondent cannot be fasten with any custom duty.

The respondent may file reply to the show cause notice within six weeks. It would be permissible for the respondent to contest the said show cause notice on all the

grounds available to her in law and the adjudicating authority shall decide the matter after hearing the respondent. The appeal stands disposed of in the aforesaid terms.

....., J.
[A.K. SIKRI]

....., J.
[ROHINTON FALI NARIMAN]

New Delhi;
May 07, 2015.

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SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2505/2005

UNION OF INDIA AND ORS.

Appellant(s)

VERSUS

MANJU GOEL

Respondent(s)

(with office report)

Date : 07/05/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. Yashank Adhyaru, Sr. Adv.
Mr. P. K. Mullick, Adv.
Ms. Rashmi Malhotra, Adv.
Ms. Tanvi Kaushal, Adv.
Mr. B. Krishna Prasad, Adv.

For Respondent(s)

Mr. K. V. Vishwanathan, Sr. Adv.
Ms. Radha Rangaswamy, Adv.
Ms. Tapasvi Vashisth, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands disposed of in terms of the signed order.

(Nidhi Ahuja)
COURT MASTER

(Suman Jain)
COURT MASTER

[Signed order is placed on the file.]

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