

IN THE HIGH COURT OF MADRAS

Writ Appeal No.1720 of 2019  
CMP No.11526 of 2019

1) COMMISSIONER OF CUSTOMS, CHENNAI-II  
COMMISSIONERATE, CUSTOMS HOUSE  
NO.60, RAJAJI SALAI, CHENNAI-600001

2) THE ADDITIONAL COMMISSIONER OF CUSTOMS-II (G-5)  
CUSTOMS HOUSE, NO.60, RAJAJI SALAI  
CHENNAI-600001

Vs

M/s S P ASSOCIATES  
REP BY ITS PROPRIETOR MR YOGENDRA PRATAP  
NO.1/11959, ULDHANPUR, NAVEEN SHAHDARA  
DELHI-110032

Dr Vineet Kothari & C V Karithikeyan, JJ

Dated: June 10, 2019

Appellant Rep by: Mr Syed Nurullah Sheriff  
Respondent Rep by: Mr S Sankaranarayanan

Cus - This appeal arises out of the order dated 22.02.2019, disposing of a batch of writ petitions in **2019-TIOL-644-HC-MAD-CUS** - The Single Judge, in the operative portion of the said order, had directed the assessee to appear before the adjudicating authority, giving liberty to the adjudicating authority to initiate proceedings for assessment and adjudication of the consignments in question, in terms of the applicable statutory provisions and in accordance with law - Expressing any opinion on the merits of the case may prejudice the rights of parties at this stage, since the case has admittedly been remitted back to the adjudicating authority for adjudication of various issues - It goes without saying that the assessee is at liberty to cite all relevant case laws before the said authority and the said authority has already been directed and is otherwise also expected to pass orders in accordance with law, giving his findings and reasons in respect of the issues raised before him - The concerned adjudicating authority may issue a SCN to the assessee within four weeks: HC

Appeal disposed of

Case laws cited:

*M/s. Skylark Office Machines and others -Vs- The Commissioner of Customs and others) - 2019-TIOL-644-HC-MAD-CUS...Para 1*

*Commissioner of Customs -Vs- City Office Equipment, Chennai - 2019-TIOL-934-HC-MAD-CUS...Para 3*

## JUDGEMENT

Per: Vineet Kothari:

This appeal arises out of the order of the learned Single Judge dated 22.02.2019, disposing of a batch of writ petitions W.P.No.26049 of 2018 etc., batch (*M/s. Skylark Office Machines and others -Vs- The Commissioner of Customs and others*) = **2019-TIOL-644-HC-MAD-CUS**.

2. The learned Single Judge, in the operative portion of the said order, had directed the assessee to appear before the adjudicating authority, giving liberty to the adjudicating authority to initiate proceedings for assessment and adjudication of the consignments in question, in terms of the applicable statutory provisions and in accordance with law.

3. The Customs Department filed Writ Appeals against that order of the learned Single Judge and a batch of Writ Appeals in W.A.No.1215 of 2019 (*Commissioner of Customs -Vs- City Office Equipment, Chennai*) = **2019-TIOL-934-HC-MAD-CUS**, came to be disposed of by the Coordinate Division Bench of this Court on 25.04.2019, affirming the aforesaid part of the order of the learned Single Judge in the following manner.

*"Therefore, we direct the appellants to commence adjudication process and show cause notice be issued to the respondents within a period of four weeks from the date of receipt of a copy of this judgment. After affording reasonable time to the respondents to submit their reply to the show cause notice, the case be adjudicated on merits in accordance with law after affording an opportunity of personal hearing to the Authorized Representative of the respondents. No costs. Consequently, connected miscellaneous petitions are closed."*

4. The learned counsel for the respondent assessee Mr.Sankaranarayanan urged before us that a time frame may be fixed for the adjudicating authority to complete such adjudication process, as directed by the Coordinate Bench of this Court and also the adjudicating authority below should be directed to follow the previous decision of the CESTAT cited at Bar to maintain the judicial discipline.

5. Learned counsel for the appellant department Mr.Syed Nurullal Sheriff, however submitted that similar order as passed by the Coordinate Division Bench of this Court, may be passed in the present case also.

6. Having heard the learned counsel for both the parties, we feel that expressing any opinion on the merits of the case may prejudice the rights of the parties at this stage, since the case has admittedly been remitted back to the adjudicating authority for adjudication of various issues. It goes without saying that the respondent assessee is at liberty to cite all relevant case laws before the said authority and the said authority has already been directed and is otherwise also expected to pass orders in accordance with law, giving his findings and reasons in respect of the issues raised before him. However, to avoid further prolonging of the adjudication, we are

**inclined to set a time frame for completing the adjudication by the authority concerned.**

**7. Accordingly, in terms of the order passed by the Coordinate Division Bench of this Court, the concerned adjudicating authority may issue a show cause notice to the assessee within four weeks from the date of receipt of a copy of this order and the assessee may raise all objections before the said authority within a period of four weeks thereafter. The said authority is directed to complete the adjudication process within a period of ten weeks from today. With the above directions, this appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.**