CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

Application(s) Involved:

C/MISC/20097/2018 in C/2067/2011-DB

Appeal(s) Involved:

C/2067/2011-DB

[Arising out of Order-in-Original No. 3/2011 dated 09/05/2011 passed by Commissioner of Customs, Cochin]

K.K IMPEX
X/II, U.C. COLLEGE PO ALUVA ROOM NO.20/21, II FLOOR, PALMLAND BUILDINGS, BANK JUNCTION ALUVA.KERALA

Appellant(s)

Versus

Commissioner of Customs
COCHIN-CUS
CUSTOM HOUSE
COCHIN - 682009
KERALA

Respondent(s)

Appearance:

Mr. K.S. Mohammed Sameer, Proprietor
X/II, U.C. COLLEGE PO ALUVA ROOM NO.20/21, II FLOOR, PALMLAND BUILDINGS, BANK JUNCTION ALUVA.KERALA

For the Appellant

Mr. Pakshi Rajan, AR

For the Respondent

Date of Hearing: 28/06/2018
Date of Decision: 28/06/2018

CORAM:
HON'BLE MR. S.S GARG, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Misc Order No. 20757/2018
Final Order No. 20843 / 2018

Per : S.S GARG

The Revenue has filed the present miscellaneous application regarding dismissal of appeal for non-compliance of pre-deposit. The present appeal should be dismissed due to non-compliance of the order of the Tribunal directing the appellant to pre-deposit an amount of Rs.50,00,000/-. The Revenue has further submitted that the appellant has filed an appeal against the Order-In-Original dated 03.05.2011 passed by the Commissioner of Customs, Cochin whereby a demand of Rs.2,10,65,504 was confirmed against the appellant along with equal penalty and a penalty of Rs.50,00,000/- was also imposed on Shafeeque Ahamed. The Hon'ble CESTAT vide its Miscellaneous Order No. 26674-26675/2013 in Custom Appeal No. 2067-2068 dated 11.07.2013 had directed the main appellant M/s. K.K.Impex to pre-deposit an amount of Rs.50,00,000/- towards differential duty and the other appellant to pre-deposit an amount of Rs.5,00,000/- within eight weeks from the date of the order. The order of the Hon'ble CESTAT was challenged by the appellant before the High Court of Kerala which vide its order dated 01.01.2014 directed the appellant to deposit the pre-deposit amount within a period of two weeks from the date of the judgment. Thereafter, the appellant also filed SLP before the Hon'ble Supreme Court vide Appeal No. 2894/2014 against the judgment of the High Court which was also dismissed by the Hon'ble Supreme Court. However, the time limit to deposit the amount was extended for two months from 26.09.2014. Shri Shafeeque Ahamed has deposited Rs.5,00,000/- vide Challan No. CM/585 dated 24.11.2014 whereas the appellant has not complied with the order of the Supreme Court.

2. Heard both the parties and peruse the material on record.

3. Learned AR for the Revenue submitted that in spite of the Apex Court order, the appellant has failed to deposit the amount of Rs.50,00,000/- as directed by the Tribunal. He further submitted that the present appeal should be dismissed for non-compliance of the order of the Tribunal dated 11.07.2013 directing the appellant to make a pre-deposit of Rs.50,00,000/- towards differential duty. Today, the appellant appeared in the Court and pleaded that his appeal should be heard without insisting for the pre-deposit.

4. After considering the submissions of both the parties, we are of the considered opinion that the present appeal is liable to be dismissed for non-compliance of the order dated 11.07.2013 passed by the Tribunal directing the appellant to make a pre-deposit of Rs.50,00,000/- towards differential duty

and the said interim order has been upheld by the Hon'ble Supreme Court but inspite of that, the appellant has not made the pre-deposit. Therefore, for non-compliance of the order of the Tribunal, the present appeal is dismissed.

(Operative portion of the Order was pronounced in Open Court on **28/06/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

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