IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

Appeal No. C/87040/2017

(Arising out of Order-in-Original No.TRC/MISC-245/2009 (IMP) dated 11.07.2017 passed by Commissioner of Customs (Import), Mumbai)

Ansar & Co. **Appellant**

Vs.

Respondent

Commissioner of Customs (Import-II), Mumbai

Appearance:

Shri B.R. Tripathi, Advocate for appellant
Shri Roopam Kapoor, Commr (AR) for respondent

CORAM:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Date of Hearing : 23.07.2018
Date of Decision :12.10.2018

FINAL ORDER NO. **A/87663/2018**

Per: S.K. Mohanty

The appellant had filed an application, praying for lifting of attachment of its bank account, which was assigned with the number as C/MA(Ors)92897/17-Mum by the Registry. Such application was in context with the Appeal No. C/87040/2017. The matter came up for hearing on 03.11.2017.

2. Upon hearing both sides, the Bench observed that the bank accounts of the appellant were attached in the year 2017,

without following the principles of natural justice inasmuch as no opportunity of hearing has been granted for undertaking such action. Accordingly, vide order No. M/90704/17/SMB dated 03.11.2017, explanation was sought for from Revenue to explain under what circumstances the bank accounts were attached. The Bench made an explicit order that reply should reach on 24.11.2017. The matter came up for hearing before the bench on 24.11.2017. The bench vide order No. I/41/2017 at paragraph 2 has recorded the following observations, with a direction for listing the matter on 8.12*.2017* for hearing contempt proceedings*:-*

> *"2. In view of the gravity of the matter, notice is hereby issued to learned Commissioner to show cause the reason why contempt shall not be drawn against him for defying the order of Tribunal passed on 3.11.2017. He is directed to appear in person on 8.12.2017 and plead his defence if any."*

On 8.12.2017 there was no bench and accordingly, the matter was adjourned to 19.01.2018. Thereafter the matter was further adjourned on certain occasions and finally listed on 23.07.2018. On the said scheduled date of hearing, representatives of both sides appeared and explained the case.

3. On perusal of the case records, I find that pursuant to the order dated 03.11.2017 of the Bench, the Commissioner of Customs had filed the reply dated 22.11.2017, explaining the

detailed facts of the case. The said reply was received in the Registry on 24.11.2017. Thus, it is not the case that the respondent Commissioner has defied with the directions contained in the order dated 03.11.2017. Further, during the course of hearing, learned D.R. for Revenue has also submitted a detailed date chart, explaining the chronology of events leading to recovery of the amount. On perusal of the date chart together with annexed documents, I find that before freezing the amount of the appellant, the department has duly taken steps by intimating such action as well as for necessary compliance with the statutory provisions. Going through the available records, I find that the respondent Commissioner has complied with due process of law for initiating action for recovery of the Government dues against the appellant. Further, I also find that the order dated 03.11.2017 passed by this Tribunal has also been complied with the respondent Commissioner. Therefore, I am of the considered view that contempt proceedings cannot be initiated against the respondent in the circumstances of the case.

4. In view of above, the matter, arising out of order dated 24.11.2017 read with order dated 03.11.2017, cannot be proceeded further and accordingly, is closed for all purposes.

(order pronounced in Court on 12.10.2018)

(S.K. Mohanty)
Member (Judicial)

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