

CASE NO.:
Appeal (civil) 3024 of 2006

PETITIONER:
UNION OF INDIA AND ORS.

RESPONDENT:
M/S. A.M. OVERSEAS AND ANR.

DATE OF JUDGMENT: 18/07/2006

BENCH:
Dr. AR. LAKSHMANAN & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T
(arising out of SLP(C) No.23168/2005)

Dr. AR. Lakshmanan, J.
Leave granted.

Heard Mr. Mohan Parasaran, learned Additional Solicitor General for the appellant-Union of India and Mr. Arun Jaitley, learned Senior Counsel for respondent No.1.

The appeal was filed by the Union of India through its Secretary, Ministry of Finance and the Director of Revenue Intelligence and two others questioning the correctness of the judgment passed by the High Court dated 14.10.2005. The High Court while allowing the writ petition filed by respondent no.1 held that the action of the appellants herein in preventing respondent no.1 from operating its account was bad in law and the appellants could not have issued any direction under section 110(3) read with section 113(i) and section 121 of the Customs Act, 1962. Consequently, the High Court has directed the second respondent Bank to release the account of respondent no.1 and permit operation thereof.

In this appeal, several grounds have been raised by the Union of India questioning the legality and correctness of the orders passed by the High Court. In view of the subsequent developments, we are not going into the questions of law raised and the merits in this appeal at this stage.

It is stated by the learned Senior Counsel for respondent no.1 that the first respondent's Bank Account was freezed by the appellants herein on 30.7.2005. The High Court passed the judgment in favour of respondent No.1 on 14.10.2005. A sum of Rs.49,86,755.25 was seized by the appellants herein, which was in credit in the Bank Account of the first respondent with the second respondent. It appears that the first respondent, between 15.10.2005 and 29.10.2005, has withdrawn a sum of Rs.49,09,712/- leaving a balance of Rs.75,043.25. The appellant filed the special leave petition before this Court only on 28.10.2005. This Court on 11.11.2005 granted interim stay till the matter is listed on due date.

It is, thus, seen that the first respondent has withdrawn the amount in the Bank Account before the order of stay was passed by this Court. In view of the withdrawal, the appeal filed by the appellants has become infructuous. However, we leave the question of law raised in this appeal open to be decided in an appropriate case. It is also submitted by the learned Additional Solicitor General that in view of the withdrawal of the entire amount from the Bank Account, a fresh show cause notice was issued after the investigation was completed. It is for the appellant to proceed further in accordance with law.

In view of the order now passed, there cannot be any order of seizure of the Bank Account by the appellants. We, therefore, lift the orders of seizure made on 30.7.2005 and 5.8.2005 and the respondent No.1 is at liberty to operate the said Bank Account and the second respondent will permit the first respondent to operate the said Bank Account in view of the order now passed.

The Appeal is accordingly allowed. There shall be no orders as to costs.