

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 8149 of 2015

Date of decision: 15.12.2015

M/s Niagara Metals India Ltd.

..... Petitioner

Versus

Union of India and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. Jagmohan Bansal, Advocate for the petitioner (s).

None for respondent No. 1.

Mr. Kamal Sehgal, Advocate for respondent No. 2.

Mr. Arastu Chopra, Advocate for
Mr. Vikram Jain, Advocate respondent No. 3.

AJAY KUMAR MITTAL, J. (ORAL)

This order shall dispose of CWP Nos. 8149 and 10528 of 2015 as learned counsel for the parties are agreed that the issue involved in both the petitions is identical. However, the facts are being taken from CWP No. 8149 of 2015.

2. In this petition (CWP No. 8149 of 2015) filed under Articles 226 and 227 of the Constitution of India, challenge is to the order-in-original dated 25.02.2015 (Annexure P-12) passed by respondent No. 2-Commissioner of Central Excise, Ludhiana, whereby the demand of ₹ 36.86 crores along with equal amount of penalty was confirmed. Further prayer has also been made for issuance of a writ of mandamus directing respondent No. 3-Development Commissioner, Noida Special

Economic Zone, Noida, to adjudicate show cause notice dated 05.04.2013 (Annexure P-2).

3. Learned counsel for respondent No. 3 submitted that in pursuance to the show cause notice dated 05.04.2013 (Annexure P-2), an order has been passed by respondent No. 3 on 22.09.2015, which is an appealable order and if the petitioner is aggrieved by the said order, then it may file an appeal before the Appellate Authority. Learned counsel for the petitioner submitted that the petitioner has no grievance against the said order.

4. Learned counsel for respondent No. 2 submitted that the order under challenge dated 25.02.2015 (Annexure P-12) passed by respondent No. 2 is also an appealable order and this fact has not been disputed by learned counsel for the petitioner.

5. In view of the above, while relegating the petitioner(s) to challenge the order-in-original dated 25.02.2015 (Annexure P-12) passed by respondent No. 2 by filing an appeal, it is observed that in case, such an appeal is filed by the petitioner before the Appellate Authority within a period of 30 days from the date of receipt of certified copy of this order, the same shall not be dismissed on the ground of limitation and shall be decided on merits, in accordance with law.

6. The instant petition stands disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

December 15, 2015
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(RAMENDRA JAIN)
JUDGE