

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9773 of 2016

Date of Decision: 18.5.2016

M/s BE Office Automation (P) Ltd., New Delhi

....Petitioner.

Versus

Union of India and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Deepak Gupta, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondent No.3 to amend the Import General Manifest entailing shifting of goods from Ludhiana Port to Baddi Dry Port. Further, prayer has been made directing respondent No.4 to grant full waiver of detention and demurrage charges arising on account of lapse of the respondents.

2. The Central Board of Excise and Customs (in short "the Board") issued a notification dated 2.4.1997 (Annexure P-1) under Section 7 of the Customs Act, 1962 (hereinafter referred to as "the Act") and appointed various places as Inland Container Depots for the

purpose of unloading of imported goods and loading of export goods. The said notification was amended by the Government vide notification dated 20.2.2013 (Annexure P-2) appointing the place of Baddi as Inland Container Depot for unloading of imported goods and loading of export goods. The petitioner imported two containers of the old and used digital multifunctional printer machines from BE Software Solutions Inc., Cheyenne and imported goods vide invoices dated 12.10.2015 (Annexure P-3) and dated 20.10.2015 (Annexure P-4). The incharge of vessel delivered the import manifest to the proper officer in terms of Section 30 of the Act. The Baddi Port was inaugurated on 7.10.2015 and the petitioner on coming to know about the inauguration of port at Baddi, requested the respondents and the shipping line vide letter dated 7.1.2016 (Annexure P-5) to shift the IGM from Ludhiana to Baddi. The shipping line had issued no objection certificate, Annexure P-6, to the petitioner for transfer of IGM to Baddi. The petitioner vide letters dated 12.1.2016 and 25.1.2016 (Annexures P-7 to P-9, respectively) again requested the respondents to shift IGM. Respondent No.3 vide letter dated 1.2.2016 (Annexure P-10) informed the petitioner that the IGM could be amended/transferred/shifted only on the request of the shipping line. The petitioner requested respondent No.4 to file request with respondent No.3 for the transfer/shifting/amendment of the IGM, but to no effect. Due to non-clearance of goods, the petitioner is suffering loss and, therefore, the petitioner vide letter dated 29.2.2016 (Annexure P-11) asked respondent No.4 to waive detention and demurrage charges. The petitioner vide letter dated 21.4.2016 (Annexure P-12) explained its position to respondent No.5 that the detention and demurrage charges are very high due to fault of the customs and shipping line. However, till

date no action has been taken thereon. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent letters dated 7.1.2016 (Annexure P-5) and dated 25.1.2016 (Annexure P-9) to respondent No.3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the letters dated 7.1.2016 (Annexure P-5) and dated 25.1.2016 (Annexure P-9), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of one month from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

May 18, 2016
gbs

(RAJ RAHUL GARG)
JUDGE