

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 19564 of 2017
Decided on : 30.08.2017**

M/s Horizon Ferro Alloys Pvt. Ltd.

. . . Petitioner

Versus

Customs, Excise and Service Tax
Settlement Commission and another

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

PRESENT: Mr. Sanjay Aggarwal, Advocate for
Mr. Arjun Shukla, Advocate
for the petitioner.

AJAY KUMAR MITTAL, J. (Oral)

The petitioner has approached this Court under Article 226 of the Constitution of India, seeking reading down the scope of 3rd proviso of Section 127B relating to the applications for settlement of cases under the Customs Act, 1962 (in short 'the Act') *inter alia* on the vice of unreasonableness, arbitrariness and constitutionality to the extent it reads as under:-

“Provided also that no application under this sub-section shall be made in relation to which section 123 applies or... .”

Besides this a prayer for direction to respondent No.1 has also been made to decide on merits the entire case arising out of Settlement Application bearing SA(E) No.5401/2017, without being influenced by the inclusion of cigarettes as notified goods under Section 123 of the Act vide notification No.103/2016-Customs (N.T.) dated 25.07.2016, which is subsequent not only to the import of goods by filling of the Bills of Entry

and seizure thereof, but also after the order dated 21.06.2016 passed by this Court.

2. At the outset, on a query being put to the learned counsel for the petitioner, whether any adverse order has been passed against the petitioner, he candidly admitted that it was not such. Learned counsel for the petitioner also submitted that an application has been filed before the Settlement Commission, which is still pending. In such circumstances, he prays for withdrawal of the present writ petition, as the same is premature at this stage. However, liberty was sought to approach this Court again, as and when, any adverse order is passed against the petitioner.

3. Dismissed as withdrawn. It shall, however, be open to the petitioner to take recourse to the remedies as may be available to it, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

August 30, 2017

J.Ram

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No