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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 5828/2017

M/S ADSUN IMPEX ..... Petitioner

Through: Ms. Anjali Jha Manish, Mr. Sagar Rohtagi & Mr. Ashutosh Mishra, Advocates.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) & ORS. ..... Respondents

Through: Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Namrata Bhati, Advocate.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% 27.07.2017

1. This writ petition is by M/s Adsun Impex, a partnership firm, which is, *inter alia*, engaged in the business of manufacturing excisable goods. It is registered as an excise unit with excise department for availing the benefit of the Customs (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016. For the purpose of manufacturing mobile phone batteries, the Petitioner imports the required components from outside India.

2. The present controversy concerns an invoice dated 15th March, 2017 which was issued by an entity in Hong Kong for the 'mobile phone battery

cell' imported by Petitioner. Before the imported goods arrived in India, the Petitioner applied to the Assistant Commissioner on 27th April, 2017 for a certificate for availing the benefit of exemption under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods), Rules, 2016. After the goods arrived, the Petitioner filed a bill of entry (B/E) dated 3rd May, 2017 under the first appraisement for clearance of the imported consignment, after declaring the assessable value of Rs.13,24,110 at nil duty and availing the benefit of the certificate issued by the Central Excise Department in lieu of bond.

3. It may be mentioned that in all the Petitioner filed six B/Es. Provisional release orders were passed in respect of five of the B/Es. However, the consignment covered by B/E No. 9550038 dated 3rd May 2017, was seized by the Department. The Petitioner had a grievance about the legality of the seizure and the delay in passing an order of provisional release in respect of the consignment imported under the aforementioned B/E.

4. In the above circumstances, the present writ petition was filed seeking the following reliefs:

> *"(a) Issue a writ, order or direction in the nature of certiorari to quash the seizure done retrospectively from 23.05.2017 by seizure memo dated 26.05.2017 against bill of entry No. 9550038 dated 03.05.2017; and/or*
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> *(b) Issue a writ, order or direction in the nature of mandamus to provisionally release the goods imported against bill of entry No.9550038 dated*

03.05.2017, seized by seizure memo dated 26.05.2017 retrospectively from 23.05.2017."

5. When the petition was heard first on 14th July 2017, this Court passed the following order:

> *"1. Notice. Mr. Harpreet Singh, the learned Sr., Standing Counsel accepts notice for the Respondents.*
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> *2. At the outset, the learned counsel for the Respondent pointed out that the Petitioner had written two letters to the Department stating that they are waiving the show cause notice and personal hearing and that they would undertake to deposit the differential duty without contesting the identity, quantity and description of goods. The learned counsel for the Petitioner states that she would take instructions.*
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> *3. Learned counsel for the Respondent further states that on the basis of request made by the Petitioner, the adjudication proceedings are in progress and the adjudication order in all probability will be passed within 7 days.*
>
> *4. List on 27th July, 2017."*

6. Today, this Court has been shown copy of the Adjudication Order dated 20th July, 2017 passed by the Joint Commissioner ICD-TKD (Import), New Delhi, *inter alia*, rejecting the declared assessable value of the goods imported under B/E dated 3rd May, 2017 while simultaneously re-assessing the value of these imported goods, which were seized by the Department.

The said order also reassesses the customs duty liability and orders recovery of interest on delayed payment apart from penalty.

7. In view of the above, the main prayers in the writ petition do not survive. The points urged in the petition, including the one concerning the legality of the seizure, and all other grounds that are available to the Petitioner can be raised in the appeal that it may file against the said adjudication order.

8. The petition is disposed of.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 27, 2017
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