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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9284/2017

INDIAN METALS AND FERRO ALLOYS LTD Petitioner

Through: Mr. Nalin Kohli with Mr. Mansimran
Khurana and Mr. Ankit Roy,
Advocates.

versus

THE UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Charitarth Bharti, Advocate for
respondent Nos.1 to 3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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31.10.2017

CM No.37964/2017 (exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 9284/2017 & CM No.37963/2017 (stay)

1. The petitioner is aggrieved by the final findings and a Notification issued pursuant thereto – i.e. Customs Notification 53/2016 – Customs (ADD) dated 25.11.2016. This is pursuant to the final findings dated 20.10.2016, rendered by the Directorate General of Anti-Dumping and Allied Duties. The product in question is low ash (below 12.5%), low phosphorus less than 0.018%. It is contended that the petitioner is affected by the ADD imposed as it is an importer of the subject goods.

2. At the outset, this Court notices that the remedy of an appeal under Section 9C of the Customs Tariff Act, 1975 is available, to the petitioner.

3. It is pointed out by the respondents that the decision in *M/s. Suncity Sheets Pvt. Ltd. vs. The Designated Authority & Ors.*, WP(C) 6267/2017, decided on 24.07.2017, has ruled that petitions under Article 226 challenging such a final findings ought not be entertained and the aggrieved party be relegated to the Appellate Tribunal. This petition is based on an earlier ruling in *Hindustan Lever Ltd. vs. Union of India & Ors.* in WP(C) 2632/2017, decided on 16.05.2017

4. In *Suncity Sheets Pvt. Ltd.(supra)* the Court states that even though the final findings of the designated authority might be challenged, it is also open to the aggrieved party to challenge the Notification, issued by the Central Government, before the Appellate Tribunal, on all grounds.

5. Following the said decision, this Court is of the opinion that the petitioner has the right to approach the CESTAT Bench (C-2), which is the designated Appellate Tribunal. In case they prefer an appeal under Section 9C within two weeks from today, the same shall be entertained and heard on its merits in accordance with law without, in any manner, being constrained by the issue of limitation.

6. The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

OCTOBER 31, 2017/st