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

\+ W.P.(C) 595/2018

HANON CLIMATE SYSTEMS INDIA PVT. LTD ..... Petitioner

Through Mr. Alok Yadav and Mr. Rajat Doshi, Advocates.

versus

UNION OF INDIA & ORS. ..... Respondents

Through Mr. Vinod Diwakar, CGSC with Mr. Sanjay Pall and Mr. Akshaya Agarwal, Advocates for R-1 and 2.

Mr. Sanjeev Narula, SSC for Customs with Mr. Abhishek Ghai, Advocate for R- 3 and 4.

Mr. Rajesh Sharma, Ms. Ritu Jha and Ms. Reena Khain, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **22.01.2018**

The petitioner has prayed for the following reliefs:

> "(a)Issue an appropriate writ, order or direction including a writ of Mandamus by directing the Ministry of Finance and Ministry of Commerce & Industry to consider the representations made by the petitioner;
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> (b)Issue an appropriate writ, order or direction including a writ of Mandamus by directing the Ministry of Finance and Ministry of Commerce & Industry to issue a suitable circular/clarification in context of notification no. 23/2017 dated 16.5.2017

and anti dumping notification no. 14/06/2015-DGAD dated 10.3.2017; and

(c) Pass such further and other reliefs, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

2. The petitioner claims that the respondent authorities at ICD Tughlakabad are erroneously and wrongly interpreting Exclusion No.7 in Customs Notification No. 23/2017 dated 16th May, 2017. At other locations custom authorities have accepted the contention of importers similarly placed as the petitioner. Accordingly, the petitioner has made two representations to the Ministry of Finance and the Director General of Anti Dumping Duty dated 30th November, 2017 and 20th December, 2017, respectively, but no response has been received. This, as per the writ petition, is creating confusion and difficulty for the importers as well as the custom authorities. Consignments are being held and adverse orders or no orders are being passed.

3. Petitioner has drawn our attention to the order dated 22nd December, 2017, passed by the Madras High Court in Writ Petition Nos. 32161/2017 and 32162/2017. In this order, the Madras High Court has referred to the clarification sought by the authorities from the Central Board of Excise and Customs on the applicability of anti dumping duty. In the given circumstances, the goods imported were directed to be cleared on furnishing of bank guarantee equivalent to 25 per cent of the differential duty payable, subject to ultimate orders to be passed in the writ petition.

4. Keeping in view the limited prayer made in the writ petition and noticing the factual position, we would require the authorities to examine the

representations made expeditiously and preferably within a period of three weeks from the date copy of this order is received and issue necessary clarification.

5. In the meanwhile, in case the petitioner feels that the provisional order under Section 18 of the Customs Act is required to be passed, it will be open to them to file an application. The respondents can also take recourse to the said Section.

6. The writ petition is accordingly disposed of clarifying that we have not expressed any opinion on merits and in case of an adverse order or clarification, it will be open to the petitioner to challenge the same in accordance with law.

Dasti under signature of the Court Master.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

JANUARY 22, 2018
MR/NA