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

\+ **WRIT PETITION(CIVIL) No. 2821/2018**

Date of decision: 22nd March, 2018

NORTHERN SEED ASSOCIATION .... Petitioner
Through Mr. Neeraj Grover, Advocate with Mr. Aditya Singh, Ms. Mehk and Ms. Kanika, Advocates.

versus

UNION OF INDIA & ORS & ORS. ..... Respondents
Through Ms. Maninder Acharya, ASG with Mr. Ravi Prakash, CGSC and Mr. Nitish Gupta, Mr. Viplav Acharya, Mr. Harshul Choudhary, Mr. Sahil sood Advocates for UOI.
Mr. Amit Bansal and Mr. Akhil, Advs. for R-2.
Mr. Satish Aggarwala, Advocate for Customs.

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

SANJIV KHANNA, J. (ORAL):

This writ petition has been filed by an association called Northern Seed Association. It is stated that the petitioner association is registered under the Societies Registration Act and importers of vegetable seeds are its members.

2. The petitioners have primarily impugned General Alert Circular No.11/2013 dated 30th September, 2013 issued by office of the Commissioner of Customs, Tughlakabad and the decision dated 17th July,

2017 by the Director (Customs), Central Board of Excise and Customs (Traffic Unit) pursuant to order dated 5th December, 2016 passed in W.P.(C) No.5245/2016.

3. We do not see any reason to entertain the present writ petition for several reasons. The petitioner association has not filed list of its members but it appears that some of its members are facing proceedings pursuant to show cause notices issued to them. The issue and contentions raised is whether the coriander seeds and chilly seeds imported by the members of the petitioner association were covered under tariff item No.12099190 or under tariff item No.09092110 and 09042212 respectively. The latter items are applicable to spices.

4. Whether the goods imported by a particular person were spices or coriander and chilly seeds would be primarily a factual dispute. This lis has to be decided and adjudicated on case to case basis.

5. The respondents obviously would be entitled to contend and rely upon the reasoning given in the communication dated 17th July, 2017 and the General Alert Circular No.11/2013. The importer would urge and content to the contrary. The Customs Excise and Service Tax Appellate Tribunal, as an appellate authority, would examine the entire issue depending upon facts of each case.

6. General Alert Circular No.11/2013 was issued in the earlier regime when Special Excise Duty was payable. Goods and Services Tax has since been imposed with effect from 1st July, 2017. This could have its effect, as accepted by counsel for the petitioner.

6. Recording the above, we are not issuing notice in the present writ petition and leave it open to the members of the petitioner association to take up their stand and stance in each specific case. If aggrieved, they would be entitled to take recourse to remedies available to them under law. We have passed the said order as it is the contention of the respondents that spices were being imported as seeds and, therefore, the above General Alert Circular No.11/2013 was issued. The intent was to stop and prevent misuse.

7. The writ petition is accordingly not entertained and is disposed of with the aforesaid observations without expressing any opinion on merits. No costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 22, 2018
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