$~37

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

Date of decision: 06 November, 2019

\+ W.P.(C) 11741/2019 and CM No. 48211/2019

CYNORLMPEX ..... Petitioner

Through: Mr. A.K. Seth, Mr. Chinmaya Seth and Mr. Ekansh Mishra, Advs.

versus

COMMISSIONER OF CUSTOMS (EXPORT)..... Respondent

Through: Mr. Amit Bansal, Sr.Standing Counsel with Mr. Aman Rewaria and Ms. Vipasha Mishra, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

O R D E R

% **06.11.2019**

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM No. 48211/2019 (*exemption)*

1. Exemption allowed, subject to all just exceptions.

2. The applications are disposed of.

W.P.(C) 11741/2019

1. The grievance ventilated in this petition is about non-serving of the order in original bearing no. 55/2019 dated 5th March, 2019 passed by the Additional Commissioner of Customs, ICD, New Delhi to the petitioner herein.

2. Learned counsel appearing for the petitioner submits that despite the aforesaid order in original was passed by the Additional Commissioner of Customs, ICD, New Delhi, way back on 5th March, 2019 but the copy thereof has not been served to this petitioner so far and therefore they are unable to prefer an appeal against the aforesaid order.

3. Learned counsel appearing for the respondent submits that the authorized representative of this petitioner namely Mr. Raj Kumar has made a statement under Section 108 of the Customs Act, 1962 before the customs authority. Hence, the original copy of the order-in-original dated 5th March, 2019 was duly served to the said authorized representative on 6th March, 2019 which is also mentioned in the copy of letter dated 19th July, 2019 annexed with this writ petition as "Annexure P-1". Thus, it is submitted by learned counsel for the respondent that order in original cannot be served again to this petitioner once it is already served, otherwise the period of limitation which is already over will get extended. Learned counsel for the respondent further submitted that one more copy of the order-in-original can always be given but the period of limitation will start from 6th March, 2019, the day on which it was served upon the authorized representative of the petitioner. Copy of the acknowledgement of the said order by Sh. Raj Kumar, authorized representative of the petitioner, dated 6th March, 2019, which is tendered by the learned counsel for the respondent to this court, is taken on record.

4. In view of the aforesaid submissions and also looking to the fact of this case, it appears that the respondent has already passed an order-in-original bearing no. 55/2019 dated 5th March, 2019, copy whereof has already been served to the authorized representative of this petitioner namely Sh. Raj Kumar, whose statement has also been recorded under Section 108 of the Customs Act, 1962 before the customs authority.

Thus, there is no question of issuing any direction to the respondent to serve again order-in-original dated 5th March, 2019 to the petitioner. However, we hereby direct the respondent to supply a copy of order-in-original no. 55/2019 dated 5th March, 2019 to this petitioner. The contention of the respondent about the limitation is kept open. In case this petitioner prefers an appeal, the issue of limitation shall be decided on its own merits.

5. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

NOVEMBER 06, 2019/kr