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WPO 93 of 2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SHRI JAYABRATA MAULICK
VERSUS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date : 14th December, 2020.

APPEARANCE:

Mr. Arijit Chakrabarti, Adv.

Mr. Prabir Bera, Adv.

Mr. K.K.Maiti, Adv.

Ms. Aishwarya Rajyashree, Adv.

The Court :- This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by an order in appeal dated 20th December, 2019 passed by the Commissioner of Customs (Appeal), Kolkata.

Mr. Chakrabarti, Counsel appearing on behalf of the petitioner places the order and documents at pages 103 and 104 of the writ petition to indicate that the finding of the Appellate Authority with regard to communication of the order in original to the petitioner was perverse. The Appellate Authority in his order has stated that no documentary evidence was produced before the Appellate Authority with regard to the date of communication. However, this finding is vehemently opposed by the petitioner who submits that these documents were

provided and, in fact, written submission was prepared and filed on the date of appearance. He further submits that none had appeared on behalf of the respondent on the date of hearing before the Appellate Authority. Upon a perusal of the order, I find that the authorities' findings are perverse and, accordingly, the order is required to be quashed and set aside with a direction upon the Appellate Authority to hear the matter de novo including the point of limitation. The Appellate Authority is directed to grant an opportunity of hearing to the petitioner and pass a reasoned order within a period of six weeks from date. The reasoned order be communicated to the petitioner within a week from the date of passing of the same.

The writ petition is thus disposed of.

Since no affidavits have been exchanged, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

(SHEKHAR B. SARAF, J.)