

ORDER SHEET

WPO 228 of 2020
IA No. GA 1 of 2020
GA 1004 of 2020 (OLD)
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. SIMPLEX INFRASTRUCTURES LIMITED & ANR.
VS.
JOINT DIRECTOR GENERAL OF FOREIGN TRADE & ORS.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 21st September, 2020

Mr. Sujit Ghosh, Krishna Rao, Mr. Piyush Agarwal, Ms.
Sushmita Sekhar, Advocates for petitioners.

Mr. Vipul Kundalia, Mr. Siddhartha Lahiri, Advocates for respondents.

The Court : The writ petitioners challenge an order dated 10th June, 2020 passed by the Deputy Director General of Foreign Trade which appears at pages 34 to 37 of the writ petition. It is the contention of the petitioners that the territorial jurisdiction of Regional Authority to decide cases as that of the petitioner is provided in appendix 1A of the Appendices and Aayat Niryat Forms. The petitioners for this purpose refer to entry 2.04 at page 389 of the writ petition. The petitioners then refer to appendix 1A appearing at page 380 and more particularly to entry 25 at page 384 thereof which says that in case of West Bengal, Sikkim, Tripura and Union Territory of Andaman and Nicobar the Additional Director General of Foreign Trade is the Regional Authority. The petitioners relying upon this provision says that the order having been passed by the Deputy Director General is without

jurisdiction and as such the same is required to be set aside on the jurisdiction ground alone.

On behalf of the respondents page 469 of the writ petition is referred to and it is submitted that the designation of officer to entertain and decide a dispute is on the value of the goods and services covered by an authorisation. The total value of the goods and services under the authorisation is about Rs.6.52 crores and as such the Deputy Director General of Foreign Trade having jurisdiction upto Rs.10 crores was entitled to adjudicate the dispute.

This submission is, however, disputed by the Advocate for the petitioners on the ground that the notification at page 469 according to him relates to penalty and not the authorisation amount. Without going into the dispute as to the value of the authorisation.

I think justice will be subserved if the matter is remanded back to the respondent no.3 who has unlimited jurisdiction as to the value of authorisation to decide the case afresh on the basis of the show cause notice dated 6th June, 2018 appearing at page 303 of the writ petition (Annexure P-10) issued by the respondents. All points are kept open. The petitioners shall be at liberty to rely upon the document which forms part of the writ petition. The respondents shall also be entitled to rely upon the document in their possession which does not form part of the writ petition since I have not called for any affidavit. The respondent no.3 shall be at liberty to decide the issue within 31st December, 2020 after affording an opportunity to the writ petitioners to represent its case. It is made clear that the form of hearing shall be decided by the respondent no.3 and only broad compliance

of principles of natural justice is required to be done owing to the prevailing pandemic situation.

Since I have not called for any affidavit, all allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Nothing further remains to be decided in the writ petition and the same is disposed of along with the application being G. A. 1 of 2020 (Old No.G. A.1004 of 2020).

(ARINDAM MUKHERJEE, J.)