

S/L 20
08.03.2021
Court No.26
SD

**WPA 1753 of 2021
(Via Video Conference)**

S.M. Niryat Private Limited & Anr.
Vs.
Union of India & Ors.

*Mr. Abhrotosh Majumder
Mr. Srijit Chakraborty
Mr. Rajdeep Majumder
Mr. Sunny Nandy
Mr. Mayukh Mukherjee
Mr. Suryaneel Das*

...for the Petitioner.

*Mr. K.K. Maiti
Mr. Tapan Bhanja*

...for the Respondent Nos.2 & 3.

Supplementary affidavit filed by the petitioners in Court today be taken on record.

This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by the inaction on the part of the respondent authorities in completing the final assessment with regard to the shipping bills annexed to the writ petition.

It is to be noted that the petitioners have already released their goods based on the provisional assessment carried out in the month of July 2020.

Mr. K.K. Maiti, counsel appearing on behalf of the customs authorities submits that they are *in seisin* of a document dated October 19, 2020 that indicates that the Directorate of Revenue Intelligence is carrying out an investigation with regard to the export of iron ore made by

the petitioners. He accordingly submits that Directorate of Revenue Intelligence is required to be added as a party to this proceeding.

In light of the above submissions made by Mr. Maiti, the petitioners are directed to add Directorate of Revenue Intelligence as a party respondent to this writ petition and serve a copy of the amended writ petition upon them.

Mr. Maiti has also submitted that the customs authorities are unable to carry out the final assessment as copy of the documents are with the Directorate of Revenue Intelligence.

Mr. Abhrotoosh Majumder, counsel appearing on behalf of the petitioners, has relied on a Supreme Court judgment in the case of ***Union of India & Others vs. Gangadhar Narsingdas Aggarwal & Another*** reported in ***(1997) 10 SCC 305*** wherein the Supreme Court has held that iron content is required to be determined on the basis of the wet metric tonne taking into account the moisture content. He submits that the final assessment should be based on this judgment of the Supreme Court.

I have heard counsel appearing on behalf of the parties and perused the materials on record.

I, accordingly, direct the Joint Commissioner of Customs being the respondent no.3 herein to call for the records from the Directorate of Revenue Intelligence and thereafter pass the final assessment based on the Supreme Court judgment referred to above and any other

judgments/circulars issued in this regard that may be relevant within a period of twelve weeks from date.

With the above observations, this writ petition is disposed of.

Since, no affidavit-in-opposition has been called for the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)