

08.09.2021
p.b.
Sl. No.36.

W.P.A. 7604 of 2021

Asian Tea & Exports Limited
Vs.
Additional Commissioner of Customs
(Port), Customs House Kolkata & Ors.

(Via Video Conference)

Mr. Saurav Bagaria,
Mr. Indranil Banerjee,
Ms. Stuti Baid.

.....for the petitioner.

Mr. B. P. Banerjee,
Mr. Tapan Bhanja.

.....for the respondents.

Mr. Uday Sankar Bhattacharya.

.....for the respondent.

In this matter, petitioner has challenged the impugned show-cause notice dated 21st September, 2020 under Section 124 of the Customs Act, 1962 being Annexure P-10 to the writ petition issued by the Additional Commissioner of Customs (Port)/respondent no.1.

It appears from record that on 4th November, 2020 petitioner has given a reply/objection to the aforesaid impugned show-cause notice, inter alia, objecting on the ground that the said notice does not contain the DIN (document identification number) and in response to that the respondent no.1 issued corrigendum which appears at

page 106 to the writ petition being Annexure P-10 mentioning the DIN.

Learned advocate appearing for the petitioner challenges the impugned notification in this writ petition by contending that the same is contrary to the decisions of the Hon'ble Supreme Court and also other taking legal objection including of jurisdictional fact. I find from the impugned notice that it contains the details of reasons for issuance of the impugned show-cause notice and has given the opportunity to the petitioner to meet the charges referred in the impugned show-cause notice. I am not inclined to interfere in this writ petition with the aforesaid impugned show-cause notice at this stage because this case does not fall in those categories where the authority who has issued the notice has inherent lack of jurisdiction or acted patently contrary to law and furthermore, petitioner has ample scope to take all these points in his reply to the impugned show-cause notice. Filing the writ petition on the apprehension that the respondent concerned will not consider his reply or objection is without any material and without any basis. I am of the view that the petitioner should reply to the impugned show-cause notice and take all the points both factual and legal including the decisions of the Supreme Court which he wants to rely before this Court and which he has taken in this writ petition before the respondent concerned who

will consider the same including the decision of the Supreme Court in accordance with law and pass a reasoned and speaking order after giving an opportunity of hearing to the petitioner or his authorised representatives within four weeks from the date of filing of such reply/objection to the impugned show-cause notice, if the same is filed before the respondent no.1 within ten days from date and the respondent no.1 shall communicate his decision to the petitioner within one week thereafter. In case petitioner is aggrieved by the order passed by the respondent no.1 on his reply to the impugned show-cause notice, he will be at liberty to move the appropriate forum for redressal of his grievance. Needless to mention that no unnecessary adjournments shall be granted to the petitioner.

With the aforesaid observation and direction, this writ petition being WPA 7604 of 2021 is disposed of.

(Md. Nizamuddin, J.)