

16.12.2021

ks
sl. 26

WPA 17128 of 2021

Kuldeep Kundalia
Vs

Commissioner of Customs (Preventive), West Bengal,
Kolkata & Ors.

Mr. Mainak Bose,
Mr. Neeraj Pandey,
Mr. S.M. Akhter

... For the Petitioner.

Mrs. Rajashree Kundalia,
Mr. Abhradip Maity

... For the Custom Authorities.

Heard learned Advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned adjudication proceedings on the ground of violation of principle of natural justice by not allowing the petitioner to cross-examine the witnesses upon whose statements the Respondent/Adjudicating Authority wants to rely against the petitioner. It is the basic principle of any adjudication and in inquiry proceedings that if an authority in any proceedings wants to rely on any piece of evidence or on the statement of any witness causing prejudice to a person or having adverse effect on a person that person has a right to cross-examine and has right to access to the material upon which the authority wants to rely in any proceedings. Petitioner is further aggrieved by impugned notice of the Respondent/Adjudicating Authority asking the petitioner to furnish in advance questions to be asked in cross-examination.

Learned Counsel appearing for the Respondent/Adjudicating Authority submits that the issue is premature and the stage has not come and he submits that at appropriate time and before passing the final adjudication order, petitioner shall be allowed to cross-examine the witnesses in question, if the respondent decides to rely on the statement of those witnesses.

In view of the statement made by the Respondent/Adjudicating Authority and the stand taken by the Respondent/Adjudicating Authority, this writ petition, being WPA 17128 of 2021 is disposed of on the basis of the statement made by the learned Counsel for the respondent as recorded in this order.

It is clarified that if the Respondent/Adjudicating Authority concerned does not allow to cross-examine the witnesses in question, in that event they will not be entitled to rely on the statement of those witnesses.

(Md. Nizamuddin, J.)