

30.11.2021.
p.b.
Sl. No.98.

W.P.A. 18591 of 2021
(Through Video Conference)

M/s. Naman Gupta & Associates.
Vs.
Principal Commissioner of Customs
(Airport & Administration).

Mr. Mainak Bose,
Mr. Neeraj Kumar Pandey,
Mr. Shakeel Mohammed Akhter.
.....for the petitioners.

Mr. Vipul Kundalia,
Mr. Tapan Bhanja,
Ms. S. Majumder,
Mr. Anuraj Roy.
.....for Principal Commissioner
of Customs.

The affidavit of service filed in Court today be kept
with the record.

Heard learned advocates appearing for the parties.

Case of the petitioner is that petitioner is a custom
house broker licensee and it is aggrieved by the impugned
order of prohibition being C.B. Order No.12 of 2021 dated
13th October, 2021 under Regulation 15 of the Customs
Broker Licensing Regulation 2018, it also challenges the
aforesaid impugned order of prohibition on the ground
that in view of the Proviso to Regulation 15 of the aforesaid
Regulation the said impugned order after expiry of 30 days

which admittedly stood expired on 30th November, cannot have any force of law and has no validity now.

Learned counsel appearing for the respondents submits that petitioner, against the same remedy has approached the learned tribunal by way of appeal which is still pending and petitioner cannot run two parallel proceedings for the same remedy. Learned counsel for the respondents could not contradict the well settled position of law as appears from Proviso to Regulation 15 of the aforesaid Regulation.

Learned counsel for the petitioner relies on a decision of the Hon'ble Bombay High Court dated April 15, 2013 in the case of (S. R. Sale & Co. Vs. Commissioner of Customs (General), Mumbai reported in 2013 SCC Online Bom 2027 : (2013) 295 ELT 653 and submits that due to wrong legal advice it approached the learned Tribunal instead of approaching this Writ Court and for such wrong advice it being a lay person should not be punished and petitioner undertakes to withdraw the pending appeal in question within seven days from date. The learned Tribunal should pass appropriate order on such application for withdrawal of appeal to be filed by the petitioner immediately.

In view of the discussions made hereinabove, this writ petition being W.P.A. No.18591 of 2021 is disposed of only on the limited issue confining to the impugned

prohibition order dated 13th October, 2021 by holding that the aforesaid impugned order in view of Proviso to Regulation 15 has no force in law and is not valid on this date.

(Md. Nizamuddin, J.)