

22.12.2021
KC(5)

M.A.T. 1344 of 2021
The Principal Commissioner of Customs (Port)
-versus-
Phonex Logistics Private Ltd. and Ors.
With
CAN 1 of 2021

Mr. Bhaskar Prasad Banerjee,
Mr. Tapan Bhanja.....For the appellant./

Mr. J.P. Khaitan,
Mr. Mr. K. Thaker,
Ms. Sanjukta Gupta,
Mr. Sushovit Dutt Majumdar,
Mr. Manoj Kumar Tiwari,
Md. Adil Badr,
Ms. Mini Agarwal,
Mr. Sobhan Gani,
Md. Aqib Badr,
Mr. Prakash MishraFor the respondents/
writ petitioners.

We admit this appeal.

Upon hearing Mr. Banerjee, learned advocate for the appellant and Mr. Khaitan, learned senior advocate for the respondent/writ petitioners, we propose to dispose of this appeal today itself, after dispensing with all formalities.

Mr. Khaitan states that in terms of the impugned order dated 13th December, 2021, his client has already filed a representation on 15th December, 2021 before the Commissioner of Customs (Port) within time. The impugned order gave ten days' time to pass a reasoned order which expires on 25th December, 2021.

We clarify the impugned order by stating that the Commissioner of Customs (Port) in his reasoned order shall examine the issue of suspension of the respondent/writ petitioners afresh, without in any way being influenced by the impugned suspension order and shall take a considered decision whether to affirm the said suspension or to revoke it. Such decision is to be taken by 27th December, 2021, 25th and 26th being public holidays.

Copies of the decision made by the Commissioner shall be immediately made over to the parties.

The respondent/writ petitioners shall include the same in a supplementary affidavit to be filed before the learned trial court on the returnable date of the writ application.

Mr. Khaitan also states that as of today the appellant authorities are allowing his clients clearance of import/export of container/cargo which have already entered into the CFS up to 10th December, 2021.

We prepone the returnable date of the writ application from 4th January, 2022 to the first day of the sitting of the vacation bench for the Christmas holidays, to be listed before the learned single judge having jurisdiction, at the top, as a “Motion”.

The decision of the Commissioner shall be placed before the learned judge, with all points kept open.

Till this court is in a position to consider the decision of the Commissioner, status quo regarding the business of the respondent/writ petitioners, as stated above, shall be maintained by the appellant authorities. Continuance or revocation of the suspension shall be decided by the learned single judge on the returnable date of the motion after examining the order of the Commissioner.

The impugned judgment and order is modified to the extent, as above.

The appeal (M.A.T. 1344 of 2021) and the connected application (CAN 1 of 2021) are disposed of.

(I.P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)