

28.04.2021

ss

(Through Video Conference)

W.P.A. 4986 of 2020

Sanjoy Deb

Vs.

The Commissioner of Customs (Preventive),
West Bengal & ors.

With

W.P.A. 4987 of 2020

Aone Agro Products Pvt. Ltd.

Vs.

Commissioner of Customs (Preventive) Customs
House & ors.

With

W.P.A. 10209 of 2020

Shri Sanjay Deb, Proprietor of M/s. Sowallow Enterprise

Vs.

Union of India & ors.

Mr. Arijit Chakraborti

Mr. Sudhir Kr. Mehta

... for the petitioners in

W.P.A.4986 of 2020 and W.P.A.4987 of 2020

Mr. Arijit Chakraborti

Mr. Nilotpall Chowdhury

... for the petitioner in

W.P.A. 10209 of 2020

Mr. K. K. Maiti

Ms. Aishwarya Rajyashree

... for the Customs authority in

W.P.A.4986 of 2020 and W.P.A.4987 of 2020

Mr. K. K. Maiti

Mr. Tapan Bhanja

... for the Customs authority in

W.P.A. 10209 of 2020

Mr. Kaushik Dey

... for the Revenue authority

1. Since the issues involved in all the writ petitions mentioned above are same, by consent of the parties all

the writ petitions are taken up analogously and are disposed of by the following common order.

2. This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by a communication dated September 10, 2020 issued by the Additional Commissioner of Customs CC(P), West Bengal, Kolkata with regard to refusal to provisionally release the goods that have been seized by the Directorate of Revenue Intelligence. The said communication details out certain further documents that are required from the petitioners.

3. It is to be noted that on an earlier occasion when the goods were imported in the year 2020 by an order dated March 18, 2020 the Assistant Commissioner of Customs, Headquarters, Adjudication, had sought for prior approval of Genetic Engineering Approval Committee for provisional release of the goods.

4. On appeal, the Commissioner of Customs (Appeals), Kolkata had set aside the order of the Additional Commissioner of Customs and directed him to reconsider the matter. Now, it appears that different requirements have been sought for by the Additional Commissioner of Customs by way of the impugned communication dated September 10, 2020.

5. I have heard learned Counsel for the appearing parties and perused the materials on record.

6. I find that the order dated 21st August, 2020 in relation to requirement of Non-GM cum GM free certificate accompanied with imported food consignment has been clarified subsequently by an order dated October 12, 2020 that specifically states that the earlier order was applicable only to food crops mentioned in Annexure 1 of the order and not to processed food products in general.

7. It is undisputed that the products imported by the petitioners do not find place in Annexure 1 of the order dated 21st August, 2020.

8. Upon perusal of the documents, I am of the view that the flip-flop being adopted by Additional Commissioner of Customs is without any basis and accordingly, cannot be sustained.

9. In light of the same, the communication dated September 10, 2020 is set aside and the Additional Commissioner of Customs is directed to apply his mind properly and grant provisional release order of the goods as per the laid down rules and procedures ensuring adequate security to revenue. The order of provisional

release of goods should be passed within a period of two weeks from date and should be communicated to the petitioners immediately on passing of the same.

10. With the above directions, all the writ petitions are disposed of keeping the supplementary affidavit in W.P.A. 4987 of 2020 with the record.

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

12. All parties are to act on website copy of this order.

(Shekhar B. Saraf, J.)