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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE
[Via Video Conference]

WPO/213/2021

ELECTROSTEEL CASTINGS LTD. AND ANR.
Versus
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE TIRTHANKAR GHOSH
Date : 20th May, 2021.

Appearance:
Mr. Jishnu Chowdhury, Adv.
Mr. Arif Ali, Adv.
Mr. Prabhat Srivastava, Adv.
...for the petitioners

Mr. Bhaskar Prasad Banerjee, Adv.
Mr. Tapan Bhanja, Adv.
...for the respondents

The Court : The petitioners are aggrieved by the order dated 31.03.2021 passed by Shri Kaushal Kumar Mishra, Deputy Commissioner of Customs in connection with File no. S.34M-55/2019 DBK. Mr. Chowdhury, learned Advocate appearing for the petitioners at the inception draws the attention of the Court to a part of the order which refers to "Personal Hearing & Submission". In serial no. 4 under the said heading it has been recorded "A personal hearing was given on 05.03.2021 but nobody attended the Personal Hearing". According to Mr. Chowdhury that no service was effected upon the present petitioners and as such they could not participate in the hearing,

consequently they have been penalized by this final order which is referred to in paragraphs 7 and 8 of the said order.

Mr. Bhaskar Prasad Banerjee, learned Advocate appearing for the respondents disputes the submission made by the petitioners and submits that service was effected by way of e-mail which is referred to in page 155 of the writ petition. Learned Advocate emphasizes that the e-mail address referred to is available in the official website and records reflect that this is the official email address of the company.

Mr. Chowdhury, learned Advocate for the petitioners disputes such contentions advanced by Mr. Banerjee appearing for the respondents.

This Court is of the considered view that as the petitioners have been penalized for their acts and actions which include a financial burden, they must be afforded an opportunity of hearing prior to any order being passed.

In view of the aforesaid, the order dated 31.03.2021 passed by Mr. Kaushal Kumar Mishra, Deputy Commissioner of Customs, Drawback Department (Port), Customs House, Calcutta is hereby set aside.

Needless to say that this Court has not entered into the merits of the order and has only provided an opportunity of hearing to the petitioners which shall be considered by the authority before passing any order, in accordance with law.

In respect of the submissions made by Mr. Chowdhury regarding the remittance documents which are to be uploaded by bank authorities I direct the concerned branches of Punjab National Bank, State Bank of India, ICICI Bank, HDFC Bank and IDBI Bank to upload in their official website regarding

the remittance documents without which the petitioners may not be able to effectively conduct the hearing before the authorities. Such uploading must be done within a fortnight from date.

The respondent no. 4 is directed to conduct the hearing on and from 14.06.2021 and complete the same by 18.06.2021.

Since no affidavits have been filed, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the aforesaid observation, W.P.O. No. 213 of 2021 is disposed of.

Urgent website certified copy of this order, if applied for, be given to the parties upon compliance of all the requisite formalities.

(TIRTHANKAR GHOSH, J.)