

ORDER SHEET

WPO/310/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

GIRDHARI LAL DALMIA
VERSUS
THE PRINCIPAL COMMISSIONER OF CUSTOMS (PORT) AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 2nd August, 2021.

(Via Video Conference)

Appearance:
Mr. Biswajit Mukherjee, Adv.
Mr. Anurag Bagaria, Adv.
. . .for the petitioner.

Mr. Kaushik Dey, Adv.
Mr. Tapan Bhanja, Adv.
. . .for the respondent nos.1 to 3.

Mr. Phiroj Edulji, Adv.
Mr. Goutam Sardar, Adv.
. . .for the Union of India.

The Court: In this matter petitioner has challenged the impugned show cause notice issued on 9th December, 2013 and it was traveled up to the Tribunal twice. First on 22nd June, 2005 learned Tribunal remanded the matter to the adjudicating authority who decided the matter by passing final order on 5th March, 2010.

The said order of the adjudicating authority dated 5th March, 2010 was again challenged by the petitioner before the learned Tribunal and the learned Tribunal again by its order dated 24th August, 2017 remanded the matter before the adjudicating authority.

It is admitted position that after the second remand order by the tribunal dated 24th August, 2017, adjudicating authority has not disposed of the same till date.

Considering the submission of the parties I direct the Principal Commissioner of Customs (Port)/respondent No.2 to dispose of the pending proceeding in question within eight weeks from the date of communication of this order positively since already more than four years has been passed.

I am constrained to observe that this lethargic attitude of department is not appreciated by this Court. Mr. Dey, learned Advocate appearing for the respondent is not in a position to explain the reason for inordinate delay in disposing the case of the petitioner on the order of remand by the Tribunal.

Since I am not deciding the case on merit, parties are at liberty to take all points before the adjudicating authority which has been taken before this Court.

However, I make it clear that while adjudicating, the respondent No.2 will decide the case on its own merit and strictly in accordance with law and shall pass a reasoned and speaking order after giving an opportunity of hearing to the parties.

Since, this writ petition has been disposed of at motion stage and no affidavits have been called for, allegations made in the writ petition shall be deemed to have been denied by the respondent.

WPO No.310 of 2021 is disposed of.

(MD. NIZAMUDDIN, J.)

sp/A.Dey