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WPO No. 592 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SHRI KAUSHAL KADEL, PROP. OF M/S. RICHMOND INDUSTRIAL
Versus
UNION OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 27th September, 2021

(Via Video Conference)

Mr. Arijit Chakraborty, Adv.
Mr. Nilotpal Chowdhury, Adv.
Mr. Prabir Bera, Adv.
... for Petitioner

Mr. Kaushik Dey, Adv.
... for Respondents

The Court : In this matter the petitioner has challenged the impugned notice and final adjudication order on the ground of inherent lack of jurisdiction of the Officer of the DRI who acted as a Custom Officer at the time of issuance of notice under Section 124 of the Customs Act, 1962, which according to the petitioner, is contrary to law laid down by the Hon'ble Supreme Court in the case of Canon India Pvt. Ltd. reported in 2021 (376) E.L.T 3 (S.C.) as well as the order of this Court dated 12th April, 2021 in the case of Manas Kumar Paul -vs- The Principal Commissioner of Customs (WPO

183 of 2021) and order dated 7th April, 2021 in the case of Emami Agrotech Ltd. -vs- Union of India & Ors. (WPA 7130 of 2021) and other group of matters and decision of the Delhi High Court dated 12th April, 2021 in the case of Gopal Gupta -vs- Principal Additional Director General [WP(CRL) 821/2021]. It is the case of the petitioner that all these cases were not properly considered at the time of passing the impugned order of adjudication.

Since it is a pure question of law and matter of interpretation of various judgments of the Hon'ble Supreme Court and other High Courts the writ petition cannot be dismissed summarily.

Mr. Chakraborty, learned Advocate appearing for the petitioner in support of his contention of challenging the impugned notice on the ground of inherent lack of jurisdiction by the Officer concerned of the respondent DRI who acted as a Custom Officer, has relied on my order dated 1st September, 2021 in WPO/419/2021 (Shekhar Agarwal vs. Joint Commissioner of Customs(Port) & Ors.) where the same notice was issued to the present petitioner, which is dated 30th June, 2021 being Annexure P-5 to the writ petition, was set aside and the matter was remanded to the respondent adjudicating authority to consider the matter afresh.

Considering my aforesaid order dated 1st September, 2021, this writ petition being WPO 592 of 2021 is disposed of by passing the following order :-

The respondent will adjudicate on the jurisdictional issue first after taking into the consideration all the aforesaid judgments which have been relied upon by the petitioner as referred herein above before passing the final order on merit.

Since this matter has not been heard on affidavits and on merit and is being remanded only on the jurisdictional issue without calling for affidavits, the allegations contained in the writ petition are deemed to have been denied by the respondents.

Such adjudication is to be concluded and final order is to be passed by a reasoned and speaking order after giving an opportunity to hear the petitioner or authorized representatives within eight weeks from the date of communication of this order.

WPO No.592 of 2021 is disposed of.

(MD. NIZAMUDDIN, J.)