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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 02nd August, 2021

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W.P.(C) 4700/2021 & CM APPL. 14488/2021 (Exemption)

M/S MUNJAL SANITATIONS THROUGH
ITS PROPRIETOR

..... Petitioner

Through: Ms. Anjali Gupta and Mr. Piyush
Kumar, Advocates

versus

ADDITIONAL COMMISSIONER OF
CUSTOMS (PREVENTIVE)

..... Respondent

Through: Mr. Harpreet Singh, Senior Standing
Counsel with Mr. Arunesh Sharma,
Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D. N. PATEL, CHIEF JUSTICE (ORAL)

Proceedings have been conducted through video conferencing.

1. Present writ petition has been preferred seeking the following reliefs:-

“(a). Issue a writ of Mandamus or any other appropriate Writ, direction or order directing learned Respondent to supply a copy of Order-in-Original bearing No.17/SMA/ADC/2012 dated 09.04.2012 to the Petitioner.

(b). Issue a writ of Mandamus or any other appropriate writ, direction or Order directing learned Respondent to consider the date of communication of impugned order pursuant to the order of this Hon'ble Court to be the date of communication of order for the purpose of Section 128 of the Act.

(c). Issue Rule Nisi in terms of prayers at (a) and (b) above and confirm the same after hearing the parties.

(d). Award cost of this Petition; and / or

(e). Pass such other order(s) or direction (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in favour of the Petitioner in the interest of justice."

2. Learned counsel appearing for the Petitioner submits that the main relief sought in the writ petition is a direction to the Respondent to supply a copy of the Order-in-Original bearing No.17/SMA/ADC/2012 dated 09.04.2012 to the Petitioner. Respondent has filed a counter-affidavit enclosing the said order and thus, the Petitioner is now in receipt of the said order and the grievance stands satisfied.

3. Learned counsel, however, submits that a further direction be given to the Respondent to consider the date of communication of the impugned order to be the date when the order was supplied to the Petitioner along with the counter-affidavit, for the purpose of Section 128 of the Customs Act, 1962.

4. We have heard the learned counsels for the parties.

5. Learned counsel for the Petitioner does not dispute the fact that Order-in-Original bearing No.17/SMA/ADC/2012 dated 09.04.2012 is an

appealable order before the Commissioner (Appeals) under Section 128 of the Customs Act, 1962.

6. In view of the aforesaid submission, the grievance ventilated by the Petitioner stands satisfied, as the order-in-original has been received by the Petitioner. Needless to state, as and when an appeal is preferred by the Petitioner along with an application seeking condonation of delay, the concerned Authority shall decide the same in accordance with law.

7. With these observations, the writ petition along with the pending application is disposed of.

8. We make it clear that we have not expressed any opinion on the merits of the case or on the issue of condonation of delay which shall be a matter within the domain of the Competent Authority.

CHIEF JUSTICE

JYOTI SINGH, J

AUGUST 02, 2021

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