

26.7.2022

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WPA 15171 of 2022
With
WPA 15177 of 2022

M/s. Graphite India Limited
Vs
The Commissioner of Customs (Preventive), Kolkata &
Ors.

Mr. Rahul Dhanuka,
Mr. K. Choudhury
... For the Petitioner.
Mr. Vipul Kundalia,
Mr. P.B. Banerjee,
Mr. Tapan Bhanja,
Mr. Abhradip Maity
... For the Respondents/Custom Authority.

Heard learned Advocates appearing for the parties.

In these writ petitions, petitioner has challenged the impugned order of the respondent, Revisional Authority dated 28th March, 2022 dismissing the revisional application of the petitioner, which was filed against the orders of the Appellate Authority dated 17th September, 2020 and 16th March, 2021, passed by the Commissioner of Customs (Appeals), inter alia, on the ground that against the aforesaid orders of appeal, petitioner had already filed an appeal before the Tribunal and without withdrawing those appeals from the Tribunal and during pendency of the same, petitioner had filed the revisional application before the Appellate Authority. Petitioner submits that due to bona fide mistake and wrong legal advice of the legal professional, petitioner had filed the appeal before the

Tribunal, which is not the appropriate forum in law to decide those original appeals. Petitioner also submits that petitioner has already withdrawn the appeal, which were filed before the Tribunal due to mistake.

Considering the facts and circumstances of the case as discussed above and for the ends of justice I think it fit to set aside the impugned revisional order dated 28th March, 2022, since the same were dismissed on technical ground and remand the matter back to the Revisional Authority concerned to pass a fresh order on merits and in accordance with law and by passing a reasoned and speaking order and after giving an opportunity of hearing to the petitioner or its authorised representative subject to payment of a costs of Rs.30,000/- to be paid to the Calcutta High Court Bar Association Lawyers' Benevolent Fund within ten days from date.

It is clarified that the impugned order of the Revisional Authority dismissing the revisional application on the technical ground, has been set aside only for the ends of justice without going into the merits of the revisional application in question, which will be decided by the Revisional Authority strictly in accordance with law.

With this observation and direction, these writ petitions being WPA 15171 of 2022 and WPA 15177 of 2022 are disposed of.

(Md. Nizamuddin, J.)