

24.8.2022

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WPA 18826 of 2022

Shankar Prasad Verma
Vs
Commissioner of Customs(Port), Kolkata & Anr.

Mr. Moinak Bose,
Mr. S.M. Akhter
... For the Petitioner.
Mr. Uday Sankar Bhattacharya,
Mr. Tapan Bhanja
... For the Customs Authority.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned summon issued on 11th August, 2022 by the Superintendent Customs being Annexure P-23 to the writ petition on the ground that the same is in total non-application of mind, which will be reflected from the said summon where petitioner has been asked to give attendance to :

“give evidence and/or

(a) produce documents or things of the following description in your possession or under your control

1. ..

2. ..

3. ..”

From this recording itself it appears that Authority who has issued the impugned summon acted in total non-application of mind since he has not indicated what documents are to be produced by the petitioner

though summon issuing Authority has asked the petitioner to produce the documents prescribed by him without indicating what are those documents. Learned Advocate appearing for the petitioner also apprehends that in the garb of the summon under Section 108 of the Customs Act, the respondent Customs Authority may invoke penal provision of Section 104 of the Customs Act to which Mr. Bhattacharya, learned Advocate appearing for the respondents, Customs Authority submits that for Section 104, summon under Section 108 cannot link with Section 104 at this stage and petitioner's such apprehension is baseless and premature.

Considering the submission of the parties this writ petition being WPA 18826 of 2022 is disposed of by quashing the impugned summon dated 11th August, 2022 being Annexure P-23 to the writ petition in view of discussion made above.

However, quashing of this summon will not prevent the Authority concerned to issue fresh summon in accordance with law.

(Md. Nizamuddin, J.)

