IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3309 of 2022

M/s. Radhika Exports .... ***Petitioner***

Mr. Prafulla Kumar Rath, Advocate

-versus-

Union of India and others .... ***Opp. Parties***

Mr. P.K. Parhi, ASGI
(for Union of India)
Mr. Radheshyam Chimanka,
Senior Standing Counsel,
(for GST, Central Excise & Customs)

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (Oral)

Order No. **21.03.2022**

02. **1.** This matter is taken up through virtual/physical mode.

2. The petitioner is a proprietorship concern situated at Jharsuguda, engaged *inter alia* in the trading business of tyres, tubes and flaps imported from foreign countries. The dispute is in respect of goods imported by the petitioner-noticee under Bill of Entry No.2144239 dated 28.12.2020 from China. In the Bill of Entry, only the tyres to be used for agricultural purposes, i.e., Tractor and Trolley were declared. Upon unloading and examination, it was found that the petitioner had not declared consignments of tubes and flaps imported from China, apart from the imported tyres meant for use in trucks/buses and light commercial vehicles and thereby required to be classified under a different head inviting a higher rate of duty. It is also stated that the imported goods have become restricted goods in view of the notification dated 12th of June, 2020 notifying the change in foreign trade policy with China. After issuance of the show cause notice dated 22.02.2021 order in original was passed on 29.04.2021 by the Commissioner, Customs (Preventive), Bhubaneswar thereby raising demand of tax, interest, penalty and redemption fine in lieu of confiscation. The petitioner is stated to have filed an appeal on 29.10.2021 along with an application for provisional release under Section 110(A) of the Customs Act, 1962 before the Commissioner of Appeals, GST, Central Excise and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar.

3. The short prayer made in the present writ petition is for directing the appellate authority to decide the applications seeking provisional release of the seized/confiscated goods in the light of the provision of Section 110(A) of the Customs Act, 1962 as the goods are stated to have a shelf-life.

4. On the previous date of hearing Mr. Chimanka, learned counsel appearing for the Revenue was directed to seek instructions regarding the time needed for disposing of the appeal or at least the application for provisional release from the Commissioner of Appeals, GST, Central Excise and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar.

5. At the time of resumed hearing today, learned counsel for the Revenue states that he has received no information from the Appellate Authority. However, adds that he has no objection if the present writ petition is disposed of with the direction to the said Appellate Authority to dispose of the main appeal itself within a timeline or at least the pending application as soon as possible. In response, learned counsel for the petitioner also agrees with the aforesaid proposal mooted by the learned counsel for the Revenue.

6. In view of the aforesaid stand, the present writ petition is disposed of with a direction to the Appellate Authority to decide the pending appeal itself within two months from today, failing which at least the application moved under Section 110(A) of the Customs Act, 1962 for provisional release be decided not later than two months in accordance with law.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

March 21st, 2022
Cuttack

AKK