

Digitally
signed by
PURTI
PRASAD
PARAB
Date:
2022.10.13
10:58:22
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 4149 OF 2021
IN
WRIT PETITION NO. 8114 OF 2021**

Bekaert Mukand Wire Industries
Pvt. Ltd.

....Petitioner

V/s.
The Union of India and Ors.

...Respondents

Mr. Prasad Paranjape i/b Patankar & Associates for Petitioner.
Mr. M.S. Bharadwaj a/w Mr. Ajinkya Badar for Respondent Nos. 1 to 4.
Mr. J.B. Mishra a/w Mr. Ram Ochani for Respondent No.5.

**CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.
DATED : 10th OCTOBER 2022**

PC. :

1. Though the Interim Application No. 4149 of 2021 is posted today, considering the issues raised in the petition, we decide to dispose the petition itself with the consent of the counsel.

2. Among various grounds raised one of the primary ground raised by petitioner is that the documents and details submitted by petitioner has not been considered while passing the order dated 10th November 2020 impugned in the petition. In paragraph no. 3.3 of the impugned order, Respondent No.3 records that petitioner vide E-mail dated 6th June 2020 had submitted consumption certificate giving various details therein and that has been attested by the Superintendent of Customs, Pune. In the

impugned order, however, the said documents have not even been considered. It is petitioner's case that the Customs House Agent (CHA) had inadvertently mentioned only one grade 304H on the Bill of Entries instead of 302/304 H and that both materials are same and used in the finished goods for exports. In our view, Respondent No.3 had to only consider whether the goods that have been imported have been used in the goods exported.

If petitioner is able to demonstrate that it was only inadvertent or clerical error the adjudicating authority should consider the explanation.

3. Therefore, in our view, interest of justice requires that the impugned order dated 10th November 2020 is quashed and set aside, which we hereby do. The matter is remanded to Respondent No.3 for *denovo* consideration. Respondent No.3 will pass the order *denovo* within eight weeks. But before passing any order which shall be a well reasoned order, petitioner shall be given personal hearing, notice whereof shall be given atleast seven working days in advance. Should petitioner wish to place any further documents on record, petitioner may do so within two weeks from today. If the adjudicating authority disagrees with the submissions of petitioner, the reasons for disagreement shall be recorded in detail.

4. Petition disposed.

5. We would hasten to add that we have not made any observations on the merits of the matter. We do not wish to go into all details in exercise of our jurisdiction under Article 226 of the Constitution of India.

6. In view of the above, Interim Application No.4149 of 2021 does not survive and same stands disposed.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)