

25.01.2023

Sl no. 28

Ct no. 2

P.M.

WPA 1409 OF 2023

M/s. Phoenix Overseas Limited & Anr.

- Vs -

Union of India & Ors.

Mr. Arijit Chakrabarti,
Mr. Nilotpal Chowdhury,
Mr. Prabir Bera,
Mr. Deepak Sharma
... For the Petitioners.

Mr. Dibashis Basu,
Mr. Arun Bandyopadhyay
... For Union of India.

Mr. Shib Shankar Banerjee,
Mr. Ekta Sinha
... For Custom authorities

Heard learned Advocates appearing for the parties.

Petitioners have filed this writ petition being aggrieved by the impugned order dated 27th September, 2019 passed by the respondent Customs authority concerned rejecting the petitioners' application for amendment of the shipping bills in question as appears at page 229 of the writ petition and the impugned order of the DGFT authority dated 22nd November, 2022 rejecting the claim of the petitioners for the same relief.

Petitioners submit that the impugned order of rejection dated 27th September, 2019 simply on the ground that since the export has already taken place no amendment of the shipping bills could be made is

not sustainable in law in view of Section 149 of the Customs Act and that the ambit of scope of section 149 of the Act has not been properly considered by the Customs authority concerned.

Considering the facts and circumstances of this case as appears from record and submission of the parties this writ petition being WPA 1409 of 2023 is disposed of by setting aside the aforesaid impugned order dated 27th September, 2019 and the matter is remanded back to the Customs authority concerned to reconsider the application of the petitioners for the amendment of the shipping bills in question in accordance with law and particularly by taking into consideration Section 149 of the Customs Act and to pass a reasoned and speaking order after giving opportunity of hearing to the petitioners or its authorized representatives, within a period of eight weeks from the date of communication of this order.

Petitioners shall be entitled to approach the DGFT authority after the order to be passed by the Customs authority in compliance of this order.

(Md. Nizamuddin, J.)