WPA 2226 OF 2020

07.12.2023
Sl no. 18
Ct no. 2
P.M.

M/s. Steel Authority of India Limited & Anr.
- Vs -
Union of India & Ors.

Mr. Arijit Chakraborti,
Mr. Nilotpal Chowdhury,
Mr. Prabir Bera
... for the petitioners
Mr. Vipul Kundalia,
Mr. Siddhartha Lahiri
... for Union of India.
Mr. Victor Chatterjee,
Ms. Sharmistha Ghosh,
Mr. A Ghosh
... for respondent No. 4
Mr. K. K. Maiti,
Ms. A. Rajyashree
... for Customs Authority.

Heard learned Advocates appearing for the parties.

Affidavit-in-opposition filed by the respondent be kept with the record.

Petitioners have filed this writ petition being aggrieved by the impugned orders dated 18.11.2016, 01.02.2017, 21.12.2016 and 28.02.2017 passed by the respondent Customs authority concerned rejecting the petitioners' application for amendment of the shipping bills in question as appears at page 82, 73, 79 and 77 of the wit petition and the impugned order of the DGFT authority dated 17.08.2017 rejecting the claim of the petitioners for the same relief.

Petitioners submit that the impugned orders of rejection dated 18.11.2016, 01.02.2017, 21.12.2016 and 28.02.2017 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 and scope of section 149 of the Act has not been properly considered by the Customs authority concerned.

Learned advocate appearing for the petitioners in support of their contention rely on an unreported decision of this Court dated 25th January, 2023 in WPA No. 1409 of 2023 (M/s. Phoenix Overseas Limited & Anr. – Vs. – Union of India & Ors.)

Considering the facts and circumstances of this case as appears from record and submission of the parties and taking into consideration the unreported decision of this Court in the case of M/s. Phoenix Overseas Limited & Anr. (supra) this writ petition being WPA 2226 of 2020 is disposed of by setting aside the aforesaid impugned orders dated 18.11.2016, 01.02.2017, 21.12.2016 and 28.02.2017 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 by taking into consideration of the aforesaid unreported decision of this Court as to whether the same is applicable in the facts and circumstances of the present case 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.)