

11.8.2023

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WPA 5241 of 2020

West Bengal Essential Commodities Supply
Corporation Limited.

Vs

Union of India & Ors.

Mr. Sanjay Saha

... For the Petitioner.

Mrs. Debjani Ray

... For the Enforcement Directorate.

Heard learned Advocate appearing for the parties.

By this writ petition, petitioner has challenged the impugned adjudication order dated 5th February, 2020, being Annexure P-6 to the writ petition passed by the respondent Special Director, Eastern Region of Enforcement Directorate on the ground of alleged violation of principles of natural justice by contending that the documents filed by the petitioner in course of the impugned adjudication proceedings were not properly considered. There is a difference between non-consideration of a document and not proper consideration of the document by an authority. If a document is not considered at all and there is no reference of the document while passing the order by an authority can certainly be a ground of violation of principle of natural justice but once a document filed by the petitioner has been considered by the authority and taken a view or formed an opinion which the

petitioner is not agreeable or is not in favour of the petitioner maximum it can be called improper consideration and it cannot be called as non-consideration at all and if an authority on the basis of some documents filed by the petitioner comes to a finding and conclusion, the writ court cannot act as an Appellate Authority and re-appreciate those documents/evidence and substitute the finding of the authority by its own view and the appropriate authority for this purpose will be the Appellate Authority which can look into both the issues of facts and law and it can re-appreciate the evidence also. It is not a case that petitioner is remediless, statutory alternative remedy by way of appeal is available to the petitioner under Section 19 of the Foreign Exchange Management Act, 1999.

Without going into the merits of the impugned adjudication order, on the ground of availability of alternative remedy I am not inclined to grant any relief in this writ petition except granting the liberty to the petitioner to file appeal against the impugned order within 30 days before the Appellate Authority concerned from date and if such appeal is filed by the petitioner within the time stipulated herein, the Appellate Authority concerned will consider and dispose of such appeal on merits and without being

influenced by any observation made in this writ petition and without raising the point of limitation.

This writ petition is accordingly disposed of.

(Md. Nizamuddin, J.)