

11.04.2023
PB
Sl. No.36.

WPA 7254 of 2023

Manoj Kumar Chakrabortti
Vs
Joint Commissioner of Customs
(Port), Kolkata & Anr.

Mr. Mainak Bose,
Mr. Neeraj Kr. Pandey,
Mr. Shakeel Mohammed Akhter.
... For the Petitioner.
Mr. K. K. maiti,
Ms. Manashi Mukherjee.
.....for the customs authority.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned show-cause notice dated 10th February, 2023, being Annexure P-5 to the writ petition issued by the respondent Joint Commissioner of Customs (Port), under Section 124 of the Customs Act, 1962, on the ground of jurisdiction of the respondent authority concerned in issuance of the aforesaid impugned show-cause notice by contending that the item in question imported is “Free” and petitioner was asked to given reply to the aforesaid impugned show-cause notice within 30 days and the time to file such reply has expired.

Considering the facts and circumstances of this case, I am of the view that petitioner should have responded to the aforesaid show-cause notice by giving reply and make out a case before the adjudicating authority. At this stage, I am not inclined to grant any relief to the petitioner in this writ petition except extending the time to give reply to the aforesaid impugned show-cause notice for a period of two weeks from date and directing the respondent adjudicating authority concerned to consider and dispose of such reply to be filed by the petitioner on the issue of the jurisdiction to issue impugned show cause notice, on the basis of notification dated 15th July, 2020 being Annexure P-2 to the writ petition, by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner or his authorized representatives within four weeks from the date of receipt of such reply to the impugned show-cause notice and till such final order is passed on the issue of preliminary jurisdiction of the adjudicating authority there will be no further proceeding and any further proceeding in the impugned proceeding will depend upon the final order to be passed on the reply to such show-cause notice.

At the time of hearing, petitioner will be entitled to raise all the points with regard to the impugned

show-cause notice. In the meantime, if petitioner makes any application in accordance with law for provisional release of goods in question, the respondent adjudicating authority shall consider the said application in accordance with law irrespective of passing of final order of disposal of the show-cause notice, though Mr. Maiti, learned advocate appearing for the respondent submits that the goods in question is a prohibited goods which cannot be released.

With this observation and direction, this writ petition being WPA 7254 of 2023 stands disposed of.

(Md. Nizamuddin, J.)