

WPA 8075 OF 2023

19.06.2023

Sl no. 10

Ct no. 2

P.M.

M/s. APL Metals Limited & Anr.

- Vs -

Union of India & Anr.

Mr. P. K. Das, Sr. Adv.,
Mr. Subrata Mukherjee,
Ms. Preyasi Dutta
... for the petitioners

Mr. Bhaskar Prasad Banerjee,
Mr. Tapan Bhanja
... for the respondent CGST & CX

Ms. Kanika Gupta
... for respondent No. 1

Heard learned advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned adjudication order dated 17th February, 2023 being annexure P/1 to the writ petition on the ground of violation of principle of natural justice by depriving the petitioners its right to cross-examine the persons/witnesses in question whose statement has been relied upon by the adjudicating authority and has been used against the petitioner in spite of specifically asking by the petitioners for allowing it to cross-examine the

persons whose statements have been recorded and relied upon which is matter of record.

Mr. Banerjee, learned advocate appearing for the respondents could not show or establish that in course of the impugned adjudication proceeding petitioners were allowed to cross-examine the persons in question whose statement have been relied upon by the adjudicating authority causing adverse effect to the interest of the petitioner.

Mr. Banerjee neither has been able to make out any case that in the impugned adjudication proceeding the statements of those persons have no relevance at all or the same have not been relied upon by the adjudicating authority.

Considering the facts and circumstances of this case as appears from record I am of the view that there is a clear violation of principle of natural justice in this case in denying the petitioners its right to cross-examine the witnesses in question upon whose statements adjudicating authority has relied in course of impugned adjudication proceeding. In the aforesaid factual and legal position the aforesaid impugned order is set aside and the matter is remanded back to the adjudicating authority concerned to reconsider the case of the petitioner

from the stage where such irregularity of denial of principle of natural justice has been committed by not allowing the petitioners to cross-examine the persons in question upon whose statement the adjudicating authority have relied in passing the final adjudication order and to pass the order afresh after allowing the petitioners to cross-examine the persons/witnesses in question and if the adjudicating authority concerned decides not to rely on the statements of the witnesses in question in that event also the adjudicating authority will have to pass a fresh order by coming into finding by ignoring the statements of the witnesses in question.

The whole proceedings should be completed and final adjudication order shall be passed within a period of twelve weeks from the date of communication of this order.

It is needless to mention that in course of passing fresh adjudication order principle of natural justice shall be observed and the petitioners shall not be granted any unnecessary adjournment in course of the adjudication proceeding.

It is observed that this writ petition has been disposed of only on the ground of violation of principle of natural justice as indicated hereinabove

without going into the merits of the impugned adjudication proceeding.

With this observation and direction this writ petition being WPA 8075 of 2023 stands disposed of.

(Md. Nizamuddin, J.)