13.07.2023.
PB
Sl. No.31.

WPA 8727 of 2017

Union of India & Anr.
Vs
Customs, Central Excise and Service Tax Settlement Commission & Anr.

Mr. B. P. Banerjee,
Mr. Tapan Bhanja.
... For the Petitioners.
Mr. B. N. Paul.
.....for the private respondent no.2.

Heard learned advocates appearing for the parties.

Petitioner/customs authority has filed this writ petition challenging the impugned order dated 23rd November, 2016 of the Customs, Central Excise and Service Tax Settlement Commission/respondent no.1, on the ground that the customs duty determined and to be paid by the private respondent no.2 as appears from the Annexure P-3 to the writ petition amounting to Rs.25,10,066/- is patently erroneous and contrary to record in view of the petitioner's own admission in its application for settlement that customs duty payable by the petitioner is Rs.3,20,46,327/-.

Mr. Paul, learned advocate appearing for the respondents is not in a position to deny the aforesaid factual admitted position which appears from the application for settlement commission that the customs duty petitioner it is liable to pay is amounting to Rs.3,20,46,327/-. It appears from the earlier order of this Court dated 1st September, 2016 passed in the writ petition being W.P. No.84 of 2015 filed by the private respondent no.2 that customs duty which the private respondents is liable to pay is Rs.3,12,42,327/- and not Rs.3,20,46,327/- and by the aforesaid earlier order of this Court, learned Settlement Commission was asked to consider the case afresh in the light of the aforesaid observation and in spite of such observation the learned Settlement Commission has drastically reduced the customs duty and from where he got this amount is a matter of quite strange. Respondent no.2 itself has also not disputed and denied the payability of the aforesaid amount of Rs.3,12,42,327/- in its affidavit in opposition a copy of which has been furnished to this Court by Mr. Banerjee which may be kept with the record since the original copy of the affidavit in opposition is not available on record.

Considering the facts and circumstances of the case, this writ petition being WPA 8727 of 2017 is disposed of by holding that the aforesaid impugned order of the settlement commission dated 23rd November, 2016 is erroneous to the extent it has declared the customs duty settled at Rs.25,10,066/- and it is held that customs duty liable to be paid by the private respondent no.2 in this case is amounting to Rs.3,12,42,327/-.

(Md. Nizamuddin, J.)