

05.10.2023

Sl no. 27

Ct no. 2

P.M.

WPA 13286 OF 2021

Md. Salim

- Vs -

The Union of India & Ors.

Md. Soyabuddin

Mr. Shahjahan Hossan

... for the petitioner

Ms. Manika Roy

... for SBI

Mr. Kaushik Dey,

Ms. Manasi Mukherjee

... for respondent.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned action of the respondent Customs authority in freezing the bank account in question of the petitioner during the pendency of an adjudication proceeding, on the ground that the said adjudication proceeding during the pendency of which the aforesaid action was taken has already been culminated into final adjudication order and the same was challenged by the petitioner in another writ petition being WP No. 25447 (W) of 2018 and this court had passed the order on 1st February 2019 by quashing the said adjudication order and it is the further case of the petitioner that though against the

aforesaid order of quashing the adjudication order, respondents have filed appeal before the Division Bench of this Court but till date no stay has been granted on the aforesaid order of the writ court quashing the adjudication order.

It is well settled principle of law that mere filing of appeal against any order or proceeding does not amount to automatic stay of the same. In view of this settled principle of law it can be said that the adjudication order in question which has been quashed by this Court has got no existence at present in the eye of law in anticipation of which as an interim measure the impugned action of freezing of bank account in question of the petitioner was taken by the respondent customs authority.

Mr. Dey, learned advocate representing the respondent Customs authority, by the order of this Court dated 27th September, 2023 was asked to take specific instruction as to whether by any order of the Division Bench any stay has been granted against the order of the writ Court dated 01.02.2019 or that the same has been set aside by the appeal court to which Mr. Dey could not produce any document or instruction to show that any order has been passed

by the appeal Court either setting aside the aforesaid order of the writ Court or staying the same.

Considering the facts and circumstances of the case and submission of the parties and discussion made hereinabove the impugned order of freezing of bank account in question against the petitioner passed by the respondents Custom Authority concerned is quashed and the bank authority concerned will allow the petitioner to operate the bank account in question.

With this observation and direction this writ petition being WPA 13286 of 2021 stands disposed of.

(Md. Nizamuddin, J.)