

16.02.2023
KC(6)

WP.C.T. 91 of 2021
The Commissioner of Customs
(Airport and Administration)
-versus-
Praveen Kumar Agarwal and Ors.

Mr. Kaushik Kanti Maiti,
Ms. Aishwarya Raiyashree.....For the petitioner.

Mr. Debabrata Saha Roy,
Mr. Neil Basu,
Mr. Sankha Biswas.....For the respondents.

The writ application [WP.C.T. 27 of 2021 : The Commissioner of Customs (Administration and Disciplinary Authority) –vs- Amitava Bandyopadhyay and Ors.] was disposed of on 23rd August, 2021 by a division bench of this court by the following judgment:

“After hearing the learned advocates appearing for the parties, in our view, the only modification which requires to be made in the impugned order is that instead of the appellate authority, the disciplinary authority shall reconsider the matter in terms of the direction passed by the tribunal.

The order passed by the disciplinary authority on April 29, 2013 and the order passed by the appellate authority on September 12, 2013 (issued on December 18, 2013) are set aside. It is a fact that the cases of Sri S. Nithyanandam and Sri U. B. Mukherjee were decided during the pendency of the original application and accordingly the said decision could not have been considered by the authorities in taking decision in respect of the original applicants. However, in view of the similarity of facts, uniform decision is required to be taken to avoid any arbitrariness.

Accordingly, the matter shall be considered afresh by the disciplinary authority after taking into consideration the findings arrived at in the cases of Sri S. Nithyanandam and Sri U. B. Mukherjee and shall pass appropriate order at

par with those two cases, which prima facie appear to be similar in nature.

With the aforesaid modification, the writ petition stands disposed of without any order as to costs.

Photostat certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the requisites.”

It is common ground that the facts and circumstances of the instant case are identical to the one where the said order was passed by this court and that a similar order may be passed in this application.

We accept the above submission and dispose of this application by passing an order identical to the above made in the writ application [WP.C.T. 27 of 2021 : The Commissioner of Customs (Administration and Disciplinary Authority) –vs- Amitava Bandyopadhyay and Ors.], as if the said order was incorporated herein.

We further direct that the disciplinary authority shall dispose of the matter within three months of communication of this order.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

