

16.02.2023
KC(7)

WP.C.T. 93 of 2021
The Commissioner of Customs (Admn.)
presently known as Pr. Com.
(Airport and Air Cargo Comp.)
-versus-
Swapan Kumar Majumder 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.)

