WPA 28501 OF 2017

18.08.2023
Sl no. 23

Ct no. 2
P.M.

Mr. Ashoke Kumar Roy, Proprietor of M/s. Premier Traders
- Vs -
The Commissioner of Customs (Preventive), Kolkata & Ors.

Mr. Nilotpal Chowdhury
... for the petitioner

Mr. Bhaskar Prasad Banerjee,
Mr. Tapan Bhanja
... for respondent Customs authority

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by inaction on the part of the respondent Customs authority concerned in refunding the excess/differential amount of import duty in question as appears from annexure 'P/4' to the writ petition and on the allegation that in spite of the order of the first appellate authority dated 10th June, 2016 the respondent Customs authority is not implementing the same by giving refund after assessing the goods in question on the value declared by the petitioner.

Mr. Banerjee, learned advocate appearing for the respondent submits that in implementation of the order of the appellate authority, assessment has been made on the basis of value declared by the petitioner by order dated 7th December, 2017 as appears from annexure P/8 to the supplementary affidavit filed by the petitioner himself.

Mr. Banerjee further submits that delay in refunding the amount in question is due to non-compliance of the formalities which are required to be complied with by the petitioner as indicated in the intimation of the department dated 28th January, 2018 being annexure 'R' to the affidavit-in-opposition to the writ petition.

Considering the facts and circumstances of this case as appeared from record and submission of the parties this writ petition being WPA 28501 of 2017 is disposed of in the following manner : -

1. Petitioner will file the refund application in proper form prescribed in Customs Refund Application (Form) Regulation 1995 and other documents referred in such intimation dated 28th January, 2018 within four weeks from date.
2. On receipt of the aforesaid documents in compliance of the intimation dated 28th January, 2018 within the time stipulated herein, the respondent Customs authority concerned shall release the refund in question within four weeks from the date of receipt of

such application along with statutory interest which petitioner is entitled in accordance with law.

(Md. Nizamuddin, J.)