

ORDER SHEET

WPO/41/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

IFGL REFRACTORIES LIMITED
VS
THE DEPUTY COMMISSIONER OF CUSTOMS PORT DRAWBACK SECTION
AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date: 19th January, 2023.

Appearance:
Mr. Rajeev Agarwal, Adv.
Mr. Rajarshi Chatterjee, Adv.
...For the Petitioner
Mr. K.K. Maiti, Adv.
Mr. Tapan Bhanja, Adv.
...For the Respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the revisional order dated 17th August, 2022 dismissing the revisional application of the petitioner by confirming the order of the appellate authority dated 31st March, 2022 on the ground of failure to make pre-deposit which is the condition precedent for filing the appeal. Petitioner submits that before filing this writ petition he has already made the pre-deposit for filing the appeal and has annexed the document to this effect which appears at page 86 to the writ petition. However, it is not understood how the petitioner being a big company must have service of the professional, could have taken the plea of ignorance of law about the condition of making pre-deposit before filing appeal in view of the relevant provision of Customs Act and it appears from record that not only at the time of filing of appeal he did not make pre-deposit even after filing of the

revision of the order of the appellate authority he did not make pre-deposit and it had made the pre-deposit only after passing of the order of the revisional order confirming the order of the appellate authority dismissing the appeal of the petitioner on the ground of not making pre-deposit.

Considering the facts and circumstances of this case and submissions of the parties and taking into consideration that the appeal itself has got some merit, in the interest of justice the aforesaid impugned orders of the revisional authority and appellate authority are set aside and the matter is remanded back to the appellate authority to reconsider and pass fresh speaking order in accordance with law after giving opportunity of hearing to the petitioner or its authorised representative subject to the payment of cost of Rs. 25,000/- to the High Court Legal Services Authority, Kolkata, within seven days from date and shall produce the receipt of the same before the appellate authority and on production of receipt of such payment, the appellate authority shall proceed.

With these observations and directions, this writ petition being WPO 41 of 2023 stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/

