

OD – 2

ORDER SHEET
WPO/12/2013
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

HINDALCO INDUSTRIES LIMITED & ANR.
VS
UNION OF INDIA AND ORS

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 12th December, 2023

Mr. Rahul Tangri,
Mr. Shovit Betal, Advs.
...for the petitioner
Mr. Kaushik Dey,
Ms. Ekta Sinha, Advs.
...for the Respondents

The Court: Heard learned advocates appearing for the parties.

It appears from record that initially when this writ petition was moved, an order was passed by this Court on 12th February, 2013 admitting this writ petition with direction to file affidavit-in-opposition by the respondents and direction upon the petitioner to deposit Rs. 15 Lakh within a period of three weeks and the respondents were restrained from taking coercive steps for recovery. Petitioner submits that pursuant to the aforesaid order of this Court petitioner had already made deposit of Rs. 15 lakh which comes around 7% of the disputed demand arising out of the impugned adjudication order. Petitioner submits that appeal out of which this writ petition arises is still pending before the learned Tribunal and it is ready and willing to deposit balance of the 7.5 % of the

predeposit which is required to be made as per amended Section 35F of Central Excise Act, 1944.

Since this matter is pending for almost last ten years and petitioner is enjoying the interim order, there is no use of keeping this writ petition pending when the appeal out of which this writ petition arises is still pending and yet to be adjudicated and considering this fact I am inclined to dispose this writ petition being WPO 12 of 2013 with a direction upon the learned Tribunal to consider and dispose of the pending appeal in question within four months positively from the date of communication of this order without granting adjournment to the parties, on condition that petitioner will make deposit of balance of 7.5% of the predeposit in question within two weeks from date and file proof of making such deposit as indicated above before the Ld. Tribunal. Till the disposal of the appeal in question by the learned Tribunal, there shall be no coercive action for recovery of the demand in question. In case petitioner fails to make deposit as per terms and conditions stipulated herein, this interim protection will not have any force.

With this observation and direction, this writ petition stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/

