

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/29/2023
IA No.GA/1/2023
TAPAN KUMAR PAUL
-Versus-
UNION OF INDIA AND ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 17th May, 2023

Appearance :
Mr. Somnath Ganguli, Adv.
Mr. B.N.Pal, Adv.
Mr. Sukalpa Seal, Adv.
Mr. T.K. Mitra, Adv.
Mr. Prottyush Chatterjee, Adv.
Ms. Priyamvada Singh, Adv.
...for the appellant
Ms. Hasi Saha, Adv.
..for Union of India. (respondent no. 1)
Mr. K.K. Maiti, Adv.
Mr. Tapan Bhanja, Adv.
..for Customs Authority.

The Court : This Intra-Court Appeal filed by the writ petitioner is directed against order dated 13.01.2022 in WPO No. 171 of 2020. The said writ petition was filed by the appellant challenging the show-cause notice issued by the second respondent dated 9th October, 2015. The learned Single Bench has noted that the writ petition was filed only on 6.3.2020 after about four and half years after a show cause notice was issued. When the writ petition was entertained no interim order was granted. Therefore, the adjudicating authority has proceeded with the adjudication and the show-cause notice as culminated in an order-in-original dated 27.11.2022. Thus in our view, challenge to a show cause notice at this juncture cannot be entertained and the learned Writ Court rightly refused to entertain the relief

sought for nor permitted the appellant to bring on record the order or adjudication dated 27.11.2022, by way of supplementary affidavit. However, the Writ Court granted liberty to the appellant to file statutory appeal as against the said order of the adjudicating authority. Mr. Ganguly, learned Advocate for the appellant submits that as against the adjudicating order dated 27.11.2022, the appellant has filed a writ petition in WPO No. 913 of 2023 and the same is pending before the learned Single Bench. If such be the case, there is no necessity for entertaining this appeal and it would suffice to clarify that the appellant is entitled to canvass all grounds in the said pending writ petition, since the appellant would contend that the very initiation of the proceeding by issuance of show-cause notice is in violation of the provisions of the Customs Act. That apart, the appellant appears to have also canvassed the correctness of the adjudication order dated 27.11.2022 on various other grounds including the grounds of violation of principles of natural justice. Thus by giving liberty to the appellant to canvass all grounds as mentioned above, we disposed of this appeal.

Mr. Maity, learned standing Counsel for respondent/customs submits that the writ petition filed by the appellant is not maintainable, as the order of adjudication is an appellable order. It is open to the respondent revenue to raise such a plea before the learned Tribunal.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)