

ORDER SHEET

WPO/223/2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

M/S. TATA INTERNATIONAL LIMITED
VS
THE ASSISTANT COMMISSIONER OF CUSTOMS (DBK/REFUND),
KOLKATA & ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date: 17th August, 2023.

Appearance:
Mr. Anil Kumar Dugar, Adv.
Mr. Gobinda Dey, Adv.
...For the Petitioner
Mr. K.K. Maiti, Adv.
Mr. Abhradip Maity, Adv.
...for Customs Authority

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 20th December, 2019 being annexure P-4 to the writ petition passed by the Assistant Commissioner of Customs, IGST Refund Cell (Port) on the representation of the petitioner dated 4th November, 2019 making claim of refund of IGST due from shipping bills in question being annexure P-3 to the writ petition.

Mr. Maiti, learned advocate appearing for the respondents opposing this writ petition submits that the aforesaid claim of refund is not tenable in the eye of law since at the time of export petitioner had already relinquished such claim which is denied by the learned advocate appearing for the petitioner.

I have perused the aforesaid impugned order dated 20th December, 2019 and on perusal I find that while rejecting the claim of the petitioner for

the refund in question the respondent authorities have relied on Board circular dated 9th October, 2018 and on other several grounds. I am of the considered view that the grounds on which petitioner's claim of refund has been rejected has been disclosed for the first time in the aforesaid impugned order. Petitioner should have been given an opportunity to meet all those grounds in the interest of natural justice and accordingly this writ petition being WPO 223 of 2020 is disposed of by treating the aforesaid impugned order dated 20th December, 2019 itself as a show cause notice and by granting liberty to the petitioner to make objection to the same including on the points raised in the writ petition, within a period of two weeks from date and the respondent Authorities concerned on receipt of such response/objection shall pass fresh speaking order in accordance with law and after giving opportunity of hearing to the petitioner or its authorised representative and shall take a decision within a period of eight weeks from the date of receipt of such response/objection.

With these observations and directions, this writ petition stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/

