

ORDER SHEET
WPO/541/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SHRI MALAY ADDHYA
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date: 21st March, 2023.

Appearance:
Mr. Nilotpal Chowdhury, Adv.
Mr. Deepak Sharma, Adv.
...For the Petitioner
Mr. Banshi Badan Maity, Adv.
...For respondent no. 1
Ms. Rajashree V. Kundalia, Adv.
Ms. Manasi Mukherjee, Adv.
...For Respondent nos. 2 to 5
Ms. Sayani Roy Chowdhury, Adv.
Mr. Debtanay Banerjee, Adv.
...For respondent no. 6

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of attachment by the respondent Customs Authority concerned. It appears from record that initially attachment order was issued on 29th November, 2021 under Section 110(5) of the Customs Act, 1962 which was further extended by the order dated 18th May, 2022.

Mr. Chowdhury, learned counsel appearing for the petitioner submits that under the provisions of Section 110(5) of the aforesaid Act maximum attachment which can be continued is for one year and that has already been expired sometime in the month of November, 2022.

By the order of this Court dated 17th March, 2023 Ms. Kundalia was asked to take instruction as to whether any further or fresh order of attachment has been passed by the department after the expiry of one year

from the date of initial attachment order and to which Ms. Kundalia on instruction submits that not any further or fresh order of attachment has been passed.

Considering the facts and circumstances of the case and submissions of the parties and legal provision under Section 110(5) of the Customs Act, 1962, I am inclined to hold that the impugned order of attachment after the expiry of one year from the date of initial attachment order is not sustainable in law and has no legal force and in view of this declaration all legal consequence will follow automatically.

With these observations and directions, this writ petition being WPO 541 of 2023 is disposed of.

(MD. NIZAMUDDIN, J.)

TR/

