

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9686 of 2023

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Sukhdeo Singh Son of Dinbag Singh Resident of Nanakpur, Mitauli, Kheri,
Mitauli, P.S. Mitauli, District Kheri, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The Union of India through Commissioner of Customs (Preventive), 5th floor, Birchand Patel Path, Patna, Bihar.
2. The Additional Commissioner cum Adjudicating Authority, Customs (Preventive), 5th floor, Central Revenue Building, Birchand Patel Path, Patna, Bihar.
3. The Assistant Commissioner of Customs (P) Division, Muzaffarpur, Imlichatti, District Muzaffarpur, Bihar.
4. The Inspector of Customs cum the Seizing Officer, Customs (P) Division, Muzaffarpur, District Muzaffarpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Anshuman Singh, Sr. Advocate, Customs

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-08-2024

In the instant writ petition, petitioner has prayed for the following relief/reliefs:

“(i) Quashing of the order / communication dated 24.05.2023 as contained in Letter NO. 899 by which, the Assistant Commissioner (Respondent No. 3) has invoked the Bank Guarantee No. 014GT0121222001 dated 10.08.2021 valued for Rs. 6,62,500/- and requested the Bank to appropriate the amount of Bank Guarantee in the Central Government Account, notwithstanding the fact that the Respondents were restrained from giving effect to



the adjudicatory order without the permission of the Hon'ble High Court; and

(ii) Restraining the Respondents, during the pendency of the present writ application from giving effect to Letter NO. 899 dated 24.05.2023 during the pendency of the instant writ application and/or without the leave of this Hon'ble Court."

2. On the face of the record the official respondents have violated the order dated 22.11.2021 passed in CWJC No. 7999 of 2020 which is very short order, therefore, we intend to reproduce the same :

"Dr. K.N. Singh, under instructions from Shri Anshuman Singh, learned senior counsel of Customs, submits that perhaps, it would be prudent to adjourn the matter awaiting outcome of the decision of the Special Leave Petition i.e. Special Leave to Appeal (c) No. 7146 of 2021 pending before the Hon'ble Supreme Court, whereby judgment dated 20.12.2019 rendered in L.P.A. No. 1153 of 2019 titled as M/s Om Sai Trading Company & Anr. Vs. Union of India & Ors., is under challenge.

We are informed that the matter is likely to be heard by the Hon'ble Supreme Court in the month of November, 2021.

Admit.

Parties are at liberty to seek early hearing of the petition after the decision is rendered by the Hon'ble Apex Court in M/s Om Sai Trading Company (supra).



Adjudicatory proceeding shall continue. Equally, it shall be open for the adjudicatory authority to pass an order but however, the same shall not be given effect to without permission of the Court.”

3. When things stood thus the Assistant Commissioner of Customs (P) Division, Muzaffarpur – respondent No. 3 proceeded to revoke the bank guarantee furnished by the petitioner dated 10.08.2021 valued for a sum of Rs. 6,62,500/- (Six Lakhs Sixty Two Thousand Five Hundred). Pursuant to the internal correspondence between the official respondents and the bank officials, the bank have cancelled the bank guarantee and money has been paid to the official respondents. In this backdrop, certain internal correspondence is being made on behalf of the official respondents and the bank for the purpose of restoring the bank guarantee. The bank officials have informed the concerned officials to the extent that there are no policy decision in respect of restoration of any bank guarantee once it is settled. In such an event, it is bounden duty of the official respondents to refund the bank guarantee amount of Rs. 6,62,500/- (Six Lakhs Sixty Two Thousand Five Hundred) in favour of the petitioner. The matter is under consideration for almost one year. The official respondents have not taken any specific decision, therefore, they are hereby



directed to take a decision and resolve the petitioner’s grievance within a period of two weeks. If they fail to resolve within a period of two weeks, in that event, they are liable to pay interest @ 6 % *per annum* on the aforementioned amount in favour of the petitioner from the date of realization of bank guarantee.

4. With the above observation, present writ petition stands disposed of.

5. At this stage, learned counsel for the respondents submitted that it is only a formal refund of amount in favour of the petitioner and thereafter, petitioner was required to furnish fresh bank guarantee for the same amount. In this regard, if the official respondents discharge their duty insofar as refunding Rs. 6,62,500/- (Six Lakhs Sixty Two Thousand Five Hundred), in that event, petitioner undertakes to take a fresh bank guarantee for the same amount with the concerned bank and appraise the official respondents.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.08.2024
Transmission Date	NA

