

15.04.2024
Item No.7
Court No.5
Saswata

W.P.A. 9373 of 2024

**Print Jet Cartidge
Versus
The Commissioner (Preventive) of Customs & anr.**

Mr. S.S.Imam
Mr. Md. Salah Uddin

...For the petitioner

Mr. Vipul Kundalia
Ms. Aishwarya Rajashree

...For the Customs authorities

1. The present writ petition has been filed, inter alia, challenging the order issued under Section 110 (1) of the Customs Act, 1962¹.
2. Mr. Imam, learned advocate appearing for the petitioner, by drawing attention of this Court to the provisions of Section 110 (2) of the said Act submits that the where any goods are seized under Section 110(1) of the said Act and no notice in respect thereof, is given under clause (a) of Section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized.
3. It is submitted that notwithstanding expiry of six months from the date of seizure of the goods, no notice under clause (a) of Section 124 of the said Act, had been issued. Thus, the respondents despite being obliged to return the goods in terms of Section 110(1) of the said Act, having not returned the goods, necessary direction should be issued on the respondents to return the goods. In any event, it is further submitted that the petitioner had also prayed for provisional release of the

¹ Hereinafter referred to as the “said Act”

goods. The said application dated 31st January 2024 for provisional release of goods under Section 110A of the said Act is yet to be decided. The respondents cannot be permitted to continue with the seizure without deciding the application for provisional release.

4. Mr. Kundalia learned advocate appearing for the Customs authority, on the other hand, by drawing attention of this Court to the first proviso to Section 110(2) of the said Act submits that it is within the competence of the Principal Commissioner of Customs or the Commissioner of Customs to extend the time for issuance of the show cause notice under Clause (a) of Section 124 of the said Act, by recording appropriate reasons, by six months, before the expiry of the original period of six months from the date of seizure.
5. By placing before this Court a copy of the note sheet signed by the Additional Commissioner, it is submitted that the time for issuance of show cause notice under Clause (a) of Section 124 has since, been extended as would appear from the above note sheet dated 4th March 2024. Such extension had been issued within the original period of six months.
6. He, however, candidly submits that the application dated 31st January 2024 ought to have been decided by the respondents.
7. Heard the learned advocates appearing for the respective parties and considered the materials on record.
8. At this stage, although, the petitioner purports to question the validity of the order of extension on the ground that the same may have been issued beyond the

original period of six months from the date of seizure, without going into such question by calling for affidavits, I am of the view that the present writ petition can be disposed of by directing the respondents to take a decision on the petitioner's application dated 31st January 2024 and to dispose of the same by passing a reasoned order, within a period of three weeks from the date of communication of this order. The reasoned decision must be communicated to the petitioner.

9. With the above observation and direction, the writ petition being WPA 9373 of 2024 is disposed of without any order as to costs.
10. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis upon completion of requisite formalities.

(Raja Basu Chowdhury, J.)