

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE
HEARD ON: 27.02.2024**

DELIVERED ON: 27.02.2024

**CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**F.M.A. 17 of 2024
With
IA No. CAN 1 of 2023
Manoj Nahata & Anr.
Vs.
Union of India & Ors.**

Appearance:-

**Mr. Biswajit Mukherjee
Mr. Soumyajit Mishra**

.....for the appellants

**Mr. Kaushik Dey
Mr. Tapan Bhanja**

.....for the respondents/Customs Authority

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the writ petitioners is directed against the order disposing the writ petition filed challenging the order in original dated 13th April, 2023. The grounds on which this appeal has been filed is by contending that despite a specific request made in writing on 10th April, 2023 to furnish a copy of the order of the Commissioner of Customs passed under section 110(2) of the Customs Act, 1962, the same was not furnished and the adjudicating authority has proceeded to adjudicate the matter.

2. In our view, the remedy provided to the appellants by way of an appeal before the Commissioner of Customs (Appeal) is not only an effective remedy but an efficacious remedy as well.
3. Admittedly, disputed questions have to be gone into, which cannot be done in a writ proceeding.
4. Therefore, we are of the view that the learned Single Bench was fully justified in relegating the appellants to avail the appellate remedy.
5. We make it clear that it will be well open to the appellants to raise, canvass all questions of law, which have been raised in this appeal as well as in the writ petition before the appellate authority.
6. Needless to state, if the appeal is filed within a period of 30 days from the date of receipt of server copy of this judgment and order, the appellate authority shall entertain the appeal without rejecting the same on the ground of limitation.
7. With the above observations, the appeal and the connected application stands disposed of.
8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/KS AR(Ct.)