

ORDER SHEET  
IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
ORIGINAL SIDE

APO/211/2019  
With  
WPO/118/2018  
IA No. GA/1/2018 (Old No. GA/1352/2018)

WAKIL AHMED  
VERSUS  
UNION OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE I.P. MUKERJI

And

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 2<sup>nd</sup> January, 2024

Appearance:  
Mr. Soumabho Ghose, Adv.  
Mr. Orijit Chatterjee, Adv.  
Mr. Shayak Mitra, Adv.  
Ms. Sabarui Mukherjee, Adv.

Mr. Koushik Dey, Adv.  
Mr. Abhradip Maity, Adv.

The Court: Vexed and highly disputed questions of fact concerning import and export activities carried out by the appellant, the foreign exchange received by the appellant on export and the timely compliance with the Reserve Bank of India directions for receiving the export proceeds are involved in this appeal.

We have gone through the impugned judgment and order dated 14<sup>th</sup> May, 2018 as well as the order of the first adjudicating authority dated 25<sup>th</sup> June, 2012 and of the appellate authority dated 11<sup>th</sup> January, 2018.

After perusing the said orders, we are constrained to observe that detailed fact finding on the above issues, which ought to have been made, are not available. For example, we do not find any discussion with

regard to the communication of Bank of India dated 23<sup>rd</sup> February, 2018 at page 109 of the stay petition certifying that “all 367 shipping bills during the year 2004 to 2008 of M/s. Planet Inc are realized .....”. Similarly the amount of export proceeds realized by the appellant for the subject period and the duty draw back on that basis which the appellant was entitled to have not been determined in any detail at all.

In those circumstances, we set aside the impugned judgment and order dated 14<sup>th</sup> May, 2018, the order of the first adjudicating authority dated 25<sup>th</sup> June, 2012 and of the appellate authority dated 11<sup>th</sup> January, 2018.

We remit the entire matter to the Commissioner of Customs (Appeals), Customs House, Kolkata to rehear and re-determine the parties by passing a reasoned order within a period of four months of communication of this order.

The appeal (APO/211/2019) and the stay [IA No. GA/1/2018 (Old No. GA/1352/2018) are disposed of accordingly.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)