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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1886/2023

M/S AKRITI GUPTA JEWELLERS PVT LTD.
VS
UNION OF INIDA AND ORS

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 3rd January, 2024.

Appearance:

Mr. Arijit Chakraborti, Adv.
Mr. Nilotpal Chowdhury, Adv.
Mr. Prabir Bera, Adv.
Mr. Wasim Faruque, Adv.
Mr. Deepak Sharma, Adv.
... for the petitioner.

Mr. Vipul Kundalia, Adv.
Mr. Tapan Bhanja, Adv.
..for the respondent.

Mr. Tilak Mitra, Adv.
Mr. Amit Sharma, Adv.
... for UOI.

The Court: Heard learned Advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by the inaction on the part of the respondent Customs Authority in releasing the confiscated gold in question in spite of such confiscation being declared illegal both by the first appellate authority and the tribunal and even in spite of making representation and the petitioner is compelled to approach this writ Court. This conduct of the department is not appreciated. Mr. Kundalia, learned Advocate representing the Customs authority, submits that some time should be granted to release the gold in question. Mr. Kundalia submits that the authority is not bound to implement and give effect to the order of the tribunal in spite of losing before the Commissioner of Customs(Appeal) and before the tribunal and in spite of coming

to this writ Court since the time to file further appeal is still available to the them against the order dated 3.11.2023..

This Court does not accept such stand of the department represented by Mr. Kundalia and such conduct of the respondent Customs authority in defying and not giving effect to the orders of two Appellate authorities is not appreciated. When Mr. Kundalia was asked to show the provision of law, that the Customs authority is not bound to release the goods in question or to give effect to the orders of the two appellate authority he failed to show such provision.

Considering the facts and circumstances of the case and submission of the authorities and in view of the orders of the two appellate authorities, that is, Commissioner of Customs (Appeal) and the tribunal holding the confiscation illegal, no purpose will be served in keeping the writ petition pending and calling for for affidavits. In view of admitted position that the order of the Commissioner of Customs(Appeal) dated 14th August, 2020 and order of the tribunal dated 3rd November, 2023 holding the confiscation illegal and quashing the penalty order, this writ petition being WPO No. 1886 of 2023 is disposed of by directing the respondent Customs authority concerned to release the gold in question and pre-deposit made by the petitioner as a consequence to the aforesaid order of the tribunal, within two weeks from the date of communication of this order.

(MD. NIZAMUDDIN, J.)