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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 15054/2024 & CM APPL. 63135-36/2024**
M/S METAL FIFTY

.....Petitioner

Through: Mr Gaurav Kejriwal, Mr Anmoldeep
Singh and Mr Happy Chubay,
Advocates.

versus

COMMISSIONER OF CUSTOMS & ANR.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

25.10.2024

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1. The petitioner has filed the present petition, *inter alia*, praying as
under:-

“(a) issue an appropriate writ, order or direction in the nature of Mandamus directing the Respondents to release the Consignment under Bill of Lading No.HLCUBSC240811775 in favour of the Petitioner without insisting on a No Objection from the Consignee and also to cancel the previous bill of entry filed in customs, and permit the petitioner to file a new bill of entry as per new consignee;
(b) issue a writ, order or direction in the nature of mandamus directing the Respondent No.1 to waive various charges, interest and penalties etc. levied upon the consignment under Bill of Lading No. HLCUBSC240811775 and for waiving of all detention charges/demurrage for delay in issuing amendment and release order;”



2. The petitioner states that it had entered into a Sales Contract (bearing No. URMPL/60161/2024-25) on 05.08.2024 with a company United Raw Material Pte. Limited to buy “Aluminium Scrap Taint Tabor”. It is stated that the consignment was loaded in New York, USA and the port of delivery was Mundra Port, ICD Palwal, Haryana. The petitioner stated that on 03.09.2024 it entered into a High Seas Sales Agreements with RGM Recyclers Pvt. Limited (hereafter *RRPL*) for sale of the said goods. On 20.09.2024 the said consignment reached at Mundra Port and on 28.09.2024 reached at ICD Palwal, Haryana. The petitioner states that the goods were in three containers. The purchaser (*RRPL*) filed the Bill of Entry for three containers, however, has taken the delivery of only two containers. It is stated that the third container was not cleared by *RRPL* as there were some disputes regarding the quality of the goods.

3. In the aforesaid context, the petitioner has raised the claim that it be permitted to file a Bill of Entry to clear the said goods, which are lying at ICD, Palwal, Haryana. In the alternative, the petitioner contends that it may be permitted to clear the goods on the basis of the Bill of Entry already filed by the *RRPL* and take the delivery of the goods in question.

4. It is contended that the goods are incurring demurrages and same is severely prejudicing the petitioner.

5. According to the petitioner, the original documents in regard to the goods have been transferred to *RRPL* in terms of the High Seas Sales Agreement. The purchaser has also since cleared part of the consignment for home consumption. It is apparent that the petitioner has passed its title/rights in respect of the goods in question to the petitioner. The disputes are, essentially, private disputes between the petitioner and *RRPL*. The petitioner



may have, claims against the purchaser but cannot claim that the Custom Authorities are required to permit the petitioner to clear and take delivery of the goods in question.

6. It is also material to note that the said purchaser/RRPL is not made a party to the present petition.

7. In view of the above, the relief sought for by the petitioner cannot be granted. The petition is, accordingly, dismissed. Pending applications are also disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

OCTOBER 25, 2024

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Click here to check corrigendum, if any