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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8994/2016**
SHAHI INTERNATIONALPetitioner
Through: Ms. Divya Rastogi for Ms.
Anjali Jha Manish, Advocate.
versus
THE COMMISSIONER OF CUSTOMS(EXPORT)
& ANR.Respondents
Through: Ms. Anushree Narain,
Advocate.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **12.07.2024**

1. The instant writ petition has been preferred seeking the following reliefs:-

“(a) Issue a writ order or direction in the nature of mandamus or any appropriate writ, order or directions to release the goods seized by panchnama dated 18.02.2016 unconditionally in accordance with the provisions of Section 11 0(2) of the Customs Act, 1962;
(b) Grant the cost of the Petition; and”

2. Undisputedly a final adjudication order has been passed on 12 August 2021. We take note of a detailed order which we had passed in WP (C) 2653/2018 and where while dealing with an identical situation we had held as follows:

“1. These writ petitions have been preferred seeking the following reliefs:-

“i) Writ of Mandamus and/or any other appropriate writ, order or direction directing the Respondent No. 1 and/or Respondent No. 2 to restore/return the goods seized from the possession of the Petitioner on 10.06.2016 to the Petitioner unconditionally forthwith in terms of the statutory mandate laid down u/s 110 (2) of the Customs Act since the statutory permissible period for the retention of such seized goods in question stands expired upon failure to give Show Cause Notice within six months from the date of



seizure to the Petitioner;
ii) Award costs in favour of the Petitioner;
iii) Pass any such other or further order(s) in favour of the Petitioner as deem fit in the interest of justice.”

2. As is manifest from the reliefs as framed, the only prayer that was made was for the release of the goods seized from the possession of the petitioner. Mr. Singla, learned Standing Counsel has drawn our attention to an adjudication order dated 31 March 2018 to submit that in the light of the aforesaid, there exists no further justification for the continuance of the present writ petitions.

3. We note that on 23 April 2018, when the matter was taken up, the Court had made an unambiguous observation that an adjudication order should be passed. It was further observed that the issue relating to the return of the goods seized was in any case unconnected with the obligation of the respondents to complete adjudication proceedings.

4. On 16 December 2019 when the matter was taken up again, the Court passed a detailed order noting the contentions addressed on behalf of respective parties and insofar as the question of the adjudication order was concerned, it had observed as follows:-

“6. We hereby modify the stay granted by this Court.

In our opinion, adjudication proceedings of the show cause notices are not required to be stayed. Let the adjudication proceedings of the show cause notices issued the respondents after seizure of the goods in all aforesaid writ petitions shall be completed by the respondents without any further delay. But the same shall not be implemented without permission of this Court. Liberty is reserved for the respondents to move an application in these pending writ petitions, once the adjudication proceedings are over of the show cause notices issued in all the aforesaid writ petitions.”

5. It becomes pertinent to note that while the aforesaid order referred to a stay granted by the Court, the record would reflect that no interim order operated in favour of the petitioners. We further take cognizance of the fact that although the adjudication order was passed way back in 31 March 2018, the same has neither been assailed in accordance with law nor is it questioned even in the instant writ petitions. In fact, even the Show Cause Notices that would have preceded the passing of the order dated 31 March 2018 have not been challenged.

6. In view of the aforesaid, we dispose of these writ petitions leaving it open to the petitioners, if so chosen and advised, to take appropriate remedies in respect of the order of 31 March 2018.

7. The writ petitions along with pending applications shall,



consequently, stand disposed of on the above terms. All rights and contentions of respective parties on merits are kept open.”

3. Consequently and in light of the above, we dispose of the writ petition while reserving liberty of the writ petitioner to take appropriate remedies in respect of the Order-in-Original dated 12 August 2021, if so chosen and advised. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 12, 2024/sk