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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 2025/2025 & CM APPL. 9573/2025, CM APPL.9574/2025**

M/S. ADVANTEK FUEL SYSTEMS PVT. LTD. .....Petitioner

Through: Ms. Anjali Jha Manish, Mr. Priyadarshi Manish, Mr. Shreyansh Kushwaha, Mr. Jatin Kumar Gaur, Mr. Paras Aneja & Mr. Aman Ahluwalia Advs. (M:9999500576)

versus

COMMISSIONER OF CUSTOMS (PREVENTIVE) .....Respondent

Through: Mr. Aditya Singla, SSC, CBIC with Officer Mr. Rahul Jain, Mr. Ritwik Saha & Mr. Umang Mishra, Advs. (M: 9958846148)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

O R D E R

% **18.02.2025**

1. This hearing has been done through hybrid mode.

2. The present petition has been filed under Article 226 of the Constitution of India challenging the provisional attachment order of the bank account of the Petitioner *vide* order dated 13th February, 2025.

3. The Petitioner is engaged in the development of CNG/LPG conversion systems and is said to have imported certain parts of CNG kits in 2017. The case of the Petitioner is that it had availed exemption qua the said imports in terms of ***exemption notification 50/2017*** dated 30th June, 2017. This exemption was, thereafter, withdrawn on 31st March, 2022 *vide* ***Notification No.2/2022-Customs*** dated 01st February, 2022

4. The Petitioner submits that an investigation was initiated to assess the validity of the exemption availed with respect to the said imports, despite no objections being raised by the Department at the time of their availment. The

first summons is said to have been issued on 7th October, 2022. It is further submitted that the Petitioner was informed that the said investigation was closed *vide* letter dated 24th January, 2023. However, one year after the said closure, another summons was issued on 6th February, 2024 and the said investigation is still not concluded.

5. The allegation of Ms. Manish, ld. Counsel for the Petitioner, is that the Petitioner is subjected to unnecessary harassment through repeated summons and unwarranted arrests and bank account attachments, while not initiating the adjudication proceeding with an issuance of Show Cause Notice. It is further the case of the Petitioner that it has not committed any violation in availing the exemption.

6. The stand of the Department is that the Petitioner and its Directors, *etc.*, are not cooperating with the investigation and hence there was a need for provisional order for attachment of the bank account to be issued. Mr. Singla, the ld. Standing Counsel for the Department submits that despite repeated summons having been given to the Promoters and Directors, the documents are still not being furnished. The ld. Standing Counsel also clarified, on instructions, that the investigation in this case is distinct from the earlier investigation which was closed.

7. Heard. Firstly, this Court is of the opinion that the Department must refrain from repeatedly resorting to coercive measures during the investigation on the ground of non-cooperation, while simultaneously deferring the initiation of adjudication proceedings. Such conduct of deferring closure of investigation coupled with coercive measures not only upsets businesses but also imposes unwarranted hardship on Promoters and Directors, which may not be justified.

8. Freezing of bank accounts could severely disrupt business operations, especially considering the overdraft facilities they may have availed for facilitating imports and trade.

9. The short question which arises in this entire investigation would be whether the Petitioner was entitled to seek the exemption under Notification 50/2017 dated 30th June, 2017 or not.

10. Under these circumstances, this Court holds the view that the Customs Department ought to take a decision as to whether there is adequate material before it or not and if they wish to issue a show cause notice the same sought to be done at the earliest. Therefore, the Department is directed to complete the investigation and issue a show cause notice within a period of three months from now.

11. In the meantime, since the demand, which is yet to be computed, seems to be only in the range of Rs. 30 crores and considering the amount of business that the Petitioner is doing, it is directed that the Petitioner shall deposit a sum of Rs. 3 crores as an *ad hoc* deposit with the Department within a week. The HSBC bank accounts shall be defrozen immediately to enable the Petitioner to deposit within a week, a sum of Rs. 3 crores with the Department.

12. The above amount shall be considered as a deposit under protest.

13. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

DHARMESH SHARMA, J

FEBRUARY 18, 2025/*dj/Am*