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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5060 of 2019
With
CAN 3 of 2026

Kalpana Plastick Limited & Anr.
Versus
The Director of Revenue Intelligence, Kolkata & Ors.

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. Piyush Khaitan
Ms. Tulika Roy
... For the petitioners.

Mr. Bhaskar Prosad Banerjee
Mr. Tapan Bhanja
... For the Customs authorities.

Mr. Tapan Bhanja
... For Union of India.

Mr. Kaushik Dey
... For the DRI authority.

1. Challenging the demand confirmation order dated 31st December, 2018/4th January, 2019, the instant writ petition has been filed.

2. Though a statutory remedy is available from such order, the petitioners bypassing such remedy have approached this Court since, at that stage the Customs Excise and Service Tax Appellate Tribunal (hereinafter referred to as "CESTAT") was not functional. The matter has since been pending before this Court. The petitioners are also enjoying the interim order. The petitioners,

however, at this stage would seek for leave to challenge the aforesaid order before the CESTAT.

3. According to Mr. Kanodia, learned advocate for the petitioners, the writ petition was filed within the statutory period for filing of the appeal and as such appropriate relief should be granted to the petitioners to seek exemption of the period for which the writ petition has been pending before this Court.

4. Mr. Bhanja, learned advocate appears on behalf of Union of India. He does not raise any objection as according to him the remedy of the petitioners is in filing the appeal.

5. Having heard the learned advocates appearing for the respective parties, I am of the view since, the petitioners seek to withdraw the writ petition with liberty to proceed before the CESTAT, no fruitful purpose will be served by keeping the matter in the list.

6. Accordingly, liberty is given to the petitioners to approach the Appellate Tribunal if so advised. The period spent by the petitioners before this Court by pursuing the extra-ordinary remedy shall stand excluded and the appeal shall be decided on merits, provided the appeal is filed within a period of four weeks from the date of receipt of order and subject to compliance of the other formalities including payment of pre-deposit.

7. With the above observations and directions the writ petition along with the connected application stands disposed of.

Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)