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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27408 of 2024

M/s. Reach Infocom Tech Pvt. Ltd.
Versus
The Additional Commissioner, Airport & Air Cargo Complex & Ors.

Mr. Rahul Dhanuka
Mr. Niraj Baheti
... For the petitioner.

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

Mr. V. K. Singh
... For Union of India.

1. Challenging the order dated 15th October, 2024 passed by the Commissioner of Customs (Appeals), Kolkata rejecting the appeal on the ground of non-compliance of the statutory provision of pre-deposit of 7.5% of the duty as is required under Section 129 (E) of the Customs Act, 1962 (hereinafter referred to as the "said Act") the instant writ petition has been filed.

2. Although, initially this Court by an order dated 19th May, 2025 having regard to the submissions made by the learned advocate for the petitioner and by noting that the petitioner is interested to put in the pre-deposit, as such, to afford one more opportunity to the petitioner to comply with Section 129(E) of the said Act had remanded the matter back to the Commissioner of Customs

(Appeals), Kolkata for a fresh decision on merits subject to the petitioner depositing the duty as provided in Section 129(E) of the said Act within a period of four weeks from the date of passing of such order, however, before such order could be signed, the matter was mentioned and at the instance of the learned advocate for the petitioner the unsigned order dated 19th May, 2025, stood recalled since the learned advocate for the petitioner wanted to advance further submissions. Since then the matter has been pending before this Court.

3. Today, learned advocate for the petitioner would once again renew his prayer and would submit that the petitioner is interested to make payment of the pre-deposit without prejudice to its rights and contentions as regards its right to have the amount already paid during the investigation to be adjusted towards pre-deposit in the pending appeal.

4. Having regard to the above and noting the submissions of the parties and since the petitioner is interested to put in the pre-deposit, I am of the view it shall be appropriate to permit the petitioner to deposit the amount of duty as provided in Section 129(E) of the said Act within a period of four weeks from date, subject to the petitioner making payment of costs of Rs.25,000/- to the High Court Legal Services Committee. In the event, the aforesaid payment of cost is made within two weeks from date and the amount of pre-deposit of duty is paid within the time noted hereinabove, the Commissioner of

Customs (Appeals), Kolkata shall hear out and decide the appeal on merits.

5. As a sequel thereto, the order dated 15th October, 2024 stands set aside.

6. It is made clear if the petitioner fails to comply with the above direction, the benefit of the order shall not enure to the petitioner and the writ petition shall automatically stands dismissed and the impugned order shall revive.

7. With the above observations and directions the writ petition 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.)