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

+ **W.P.(C) 15550/2022**

THE BANK OF NOVA SCOTIA

.....Petitioner

Through: Mr Kumar Visalaksh with Mr Udit
Jain and Mr Arihant Tater,
Advocates.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS & ORS.

.....Respondents

Through: Ms Sonu Bhatnagar, Advocate for
respondents no.1 to 3.
Ms J. Kiran, Advocate for Mr J.P.N.
Shahi, Advocate for respondents no.4
and 5.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

14.11.2022

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[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 48344/2022

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing.

W.P.(C) 15550/2022 and CM APPL. 48343/2022*[Application filed on behalf of the petitioner seeking interim relief]*

2. This writ petition is directed against show-cause notice ["SCN"] dated 30.03.2022.

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3. The record shows, that the petitioner-bank is a Nominated Agency, and claims that it has imported gold weighing 852 Kgs under the “Replenishment of Precious Metals from Nominated Agencies’ Scheme” [hereafter referred to as “Replenishment Scheme”].

3.1 The petitioner-bank further avers, that the broad contours of scheme are encapsulated in paragraph 4.34 of Foreign Trade Policy [“FTP”] and 4.82 of the Handbook of Procedures [“HBP”].

4. It is claimed by the petitioner-bank, that the concerned agency i.e., Director General of Foreign Trade [“DGFT”] has already communicated to the Commissioner of Customs, that the petitioner-bank has imported the subject goods, in accordance with the Replenishment Scheme.

5. MsSonu Bhatnagar, who appears on behalf of the respondent nos.1 to 3/revenue, says that Customs have a role to play in the process of verification.

5.1 For this purpose, Ms Bhatnagar relies upon paragraph 4.34 of the FTP, which adverts to a notification. [See page 96 of the case file].

6. To our minds, the matter requires examination.

7. Issue notice.

7.1 Ms Bhatnagar accepts notice on behalf of the respondent nos.1 to 3, while Ms J. Kiran accepts notice on behalf of respondent nos.4 and 5, in effect the DGFT.

8. Counter-affidavit(s) will be filed, within the next four weeks.

8.1 Rejoinder(s) thereto, if any, be filed before the next date of hearing.

9. In the meanwhile, the petitioner will file a reply to the show-cause notice within the next two weeks.



9.1 However, while the adjudication will go on, the adjudicating authority will not pass a final order, till the next date of hearing.

10. List the matter on 13.03.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

NOVEMBER 14, 2022 / tr

[Click here to check corrigendum, if any](#)

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