19th October, 2020
(D/L No.6)
(SKB)

W.P.A. 21840 of 2018
With
CAN 1 of 2020
With
CAN 2 of 2020
(Via Video Conference)

Allied ICD Services Limited
Versus
Commissioner of Customs (Prev.), W.B. and others

Mr. Jishnu Saha,
Mr. Sharothi Dasgupta,
Mr. Souvik Bhadra,
Mr. Vikran Chaudhury
... for the petitioner.

Ms. Chandreyi Alam
... for the U.O.I.

Mr. Udayshankar Bhattacharya
... for the respondents.

The petitioner is a provider of services of containers in transit both in course of export and import through its Inland Container Depot ('ICD') unit at Durgapur. The petitioner describes itself as a custodian for the goods at the said ICD and appointed under Section 45 of the Customs Act, 1962.

The writ petition was filed in 2018 for challenging a recommendation dated 10th March, 2017 issued by the Additional Commissioner of Customs which denied exemption to the petitioner from paying certain charges to the customs authorities.

The present application has been filed by the petitioner for urgent relief in view of two letters of demand issued by the customs authorities on the petitioner in July and September, 2020.

Learned Counsel for the petitioner submits that the issue of the petitioner's entitlement to exemption for the services rendered to the customs authorities had been unsuccessfully challenged before the Delhi High Court by a group of similarly placed persons. The Special Leave Petition filed from the decision of the Delhi High Court is presently pending before the Supreme Court.

Learned Counsel submits that the writ petition will be required to be heard on merits on the issue of the petitioner's alleged entitlement to exemption from payment of certain charges to the customs authorities. Counsel, however, proposes that out of the bills raised by the customs authorities on the petitioner amounting to approximately Rs.4,51,000,00/- (rupees four crore fifty one lac only), the petitioner has already paid about Rs.86,00,000/-(rupees eighty six lac only) and there is remaining amount of about Rs.7 crore which is required to be paid subject to the bills received by the petitioner. Counsel submits that the petitioner is ready to make an immediate payment of Rs.3,60,000,00/-(rupees three crores sixty lac only) and odd and will pay the remaining amount within a certain period of time.

It is also submitted that the customs authorities had issued two further letters of demand in July and September, 2020 by which approximately Rs.11.5 crores has been demanded from the petitioner which are not supported by specific bills. Counsel submits that the petitioner should be given liberty to make the payment, which the petitioner is ready, subject to the customs authorities not taking any coercive steps against the petitioner.

Learned Counsel appearing for the Customs submits that the petitioner owes a substantial amount of money to the customs from 2007 onwards. It is also submitted that the Delhi High Court has conclusively held against the petitioner's entitlement to the exemption and that there is no order of stay of the Supreme Court which would warrant relief to the petitioner.

Upon hearing learned Counsel for the parties, this Court is of the view that as an interim measure of protection to the petitioner, the petitioner should be directed to pay an amount of approximately Rs.3,60,000,00/- within a period of two days from date and be directed to pay the remaining amount for which bills have been raised by the customs authorities till 2014-15 within a further period of three weeks from date. Needless to say, the payment will be made by the petitioner without prejudice to its rights and contentions. The respondent authorities will not take any coercive steps against the petitioner till 24th November, 2020.

List this matter on 18th November, 2020 as prayed for by counsel on behalf of the customs authorities.

The maintainability of the writ petition shall be kept open for arguments on the returnable date.

The Union of India is represented. The petitioner is directed to serve copies of the application on the concerned respondents.

CAN 2 of 2020 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)