
(2014) 12 CAL CK 0018
In the Calcutta High Court
Case No : W.P. No. 1139 of 2014

C.M.G. Ductiles Ltd.

APPELLANT

Vs

Commissioner of Central Excise

RESPONDENT

Date of Decision : 17-12-2014

Acts Referred:

Citation : (2015) 317 ELT 219

Hon'ble Judges : I.P. Mukerji, J

Bench : Single Bench

Advocate : Suman Kr. Dutt and Debmalaya Ghosh, Advocates for the Appellant;
K.K. Maiti, Advocates for the Respondent

Judgement

I.P. Mukerji, J.—The Court Adjudication of the show cause notice dated 21st May, 2002 is held up for 12 years. The allegation of the petitioners, all along, has been that copies of the documents seized and relied upon by the respondent-authorities have not been furnished to them.

2. Mr. Justice Harish Tandon, in a writ (WP No. 1079 of 2013) filed by the petitioners, directed on 24th January, 2014 that copies of the documents asked for by the writ petitioner in another letter dated 23rd March, 2006 had to be handed over to them within a fortnight from the date of communication of that order.

3. This letter dated 23rd March, 2006 is at page 123-124 of the writ petition being annexure P2. The documents referred to therein are as follows:

"(a) R.G.-1 for the period of December, 1999 to March, 2001

(b) R.G.-23A Part I and II for the period of December, 1999 to March, 2001

(c) Invoice referred to in para (ii) Page 3 of the Show Cause Notice alleged by having Nos. 550 to 700, 701 to 750.

(d) Alleged private records referred to in para 3.4.1 of the Show Cause Notice

and serial No. (i) to (vii).

(e) Documents referred to in para 3.4.2 of the Show Cause Notice.

(f) All seizure List dated 23rd February, 2001 and 10th September, 2001.

(g) Copies of the R.T. 12 returns filed during the period of 23rd February, 2001 and September, 2001."

4. By their letter 11th November, 2014 the Central Excise Department wrote to the writ petitioner, "... out of 6 (six) set of documents, as said to have remained undelivered, in your aforesaid letter dated 30-10-14, RG-23A Pt. II for the period from December, 1999 to March, 2000 and RT-12 Returns for the period of 23rd February, 2001 and 10th September, 2001 were neither seized nor relied upon in the impugned proceeding"

5. Now, this stand of the Customs is very astonishing. Meanwhile, notices of personal hearing for the self-same show cause has been issued by the respondent authorities to the petitioners. They are dated 16th October, 2014 and 12th November, 2014.

6. These notices are set aside and quashed.

7. I direct the adjudicating authority to hold a preliminary hearing where he has to ensure that copies of all the seized documents have been received by the petitioners. He will cause the respondent-authorities to prepare a detailed seizure list. Thereafter, he will ascertain which of those documents they have already handed over to the petitioners. Thereupon copies of the remaining documents will be handed over to them. This preliminary hearing will be in the presence of the writ petitioners or their advocates and will be disposed of by a reasoned order recording compliance with the earlier orders of this Court, particularly the order of Mr. Justice Harish Tandon dated 24th January, 2014.

8. Thereafter adjudication of the show cause notice can proceed in accordance with law.

9. No affidavits were invited. Allegations contained in the writ application are deemed not to be admitted.

10. This writ application is disposed of by this order. Certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.