

(1996) 06 CAL CK 0033
In the Calcutta High Court
Case No : Writ Petition No. 1579 of 1995

Ekam Chemical

APPELLANT

Vs

Collector of Customs

RESPONDENT

Date of Decision : 04-06-1996

Acts Referred:

Customs Act, 1962 — Section 124

Citation : (1998) 98 ELT 46

Hon'ble Judges : Tarun Chatterjee, J

Bench : Single Bench

Judgement

Tarun Chatterjee, J.—On a very technical ground this impugned order challenged in this writ application must be set aside. In this writ application the writ petitioner has challenged the order passed by Sri I. Dasgupta, Deputy Collector of Customs, Custom House, Calcutta disposing of the proceedings u/s 124 of the Customs Act. The said order is annexed at Page 90 of the Writ application.

2. The only point that has been raised by the learned Counsel for the writ petitioner is that in view of the mandatory provision u/s 124 of the Customs Act, the Deputy Collector had to give a reasonable opportunity of hearing to the Writ petitioner. It appears from the records and also from the affidavit in opposition filed by the Customs Authorities that such opportunity was not given to the writ petitioner before passing a final order against the writ petitioner. Such being the admitted position. I have no other alternative but to set aside the order of the Deputy Collector of Customs, Custom House, and remit this case back to him for fresh disposal in accordance with law after giving an opportunity of hearing in the writ petitioner.

3. I make it clear that the Deputy Collector of Customs shall intimate the date of hearing of the matter at least a fortnight before such date is fixed. I have not gone into the merits of the disputes raised against the order passed by the Deputy Collector of Customs which would be decided afresh in accordance with law by the Deputy Collector of Customs. The Deputy Collector is directed to

dispose of the matter as early as possible preferably within two months from the date of communication of this order. This impugned order is therefore set aside. This writ application is allowed to the extent as indicated above.

4. There will be no order as to costs.

5. All parties are to act on a xerox signed copy of this dictated order upon usual undertaking.