
(2022) 09 SIK CK 0048
In the Sikkim High Court
Case No : Writ Petition (C) No. 42 Of 2022

ICFAI University Sikkim

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 29-09-2022

Acts Referred:

Citation : (2022) 09 SIK CK 0048

Hon'ble Judges : Bhaskar Raj Pradhan, J

Bench : Single Bench

Advocate : Reshmi Ghosh, Anusha Basnet, Pratikcha Gurung, Sangita Pradhan, Natasha Pradhan

Judgement

Bhaskar Raj Pradhan, J

Heard Ms. Reshmi Ghosh, learned counsel for the petitioner. The writ petition challenges the impugned order in original passed by the Commissioner of Customs, Central Excise and Service Tax dated 09.05.2017 on various grounds agitated in the appeal as well as during the course of the hearing today. The impugned order seem to have been preceeded by a show cause notice issued on 31.10.2016. The show cause notice dated 31.10.2016 directed the petitioner to produce at the time of showing cause all the evidence upon which they intend to rely, in support of their claims. It also directed that they should indicate in writing whether they wish to be heard in person or through legal representative when the case will be posted for hearing. It was further directed that if no cause is shown against the action proposed to be taken within 30 days on receipt of the notice or if the noticee or their legal representatives do not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of available record.

According to Ms. Ghosh this show cause notice was responded to by the petitioner by filing a detailed reply dated 20.03.2017. In the reply the petitioner prayed for an opportunity of personal hearing before the final decision is taken as

desired by the authorities. However, according to the learned counsel for the petitioner the impugned order in original dated 09.05.2017 was passed ex-parte without granting an opportunity of hearing to the petitioner.

The learned Deputy Solicitor General appears on advance notice, accepts notice and waives formal notice thereof. Issue notice upon the other respondents, subject to filing of requisites within three days.

Issue notice upon the respondents in I.A. No. 01 of 2022 as well. The respondents may file their response to the interim application within a period of three weeks hence.

List the matter on 02.12.2022 for admission hearing.