

(2021) 08 DEL CK 0026

In the Delhi High Court

Case No : Civil Writ Petition No. 4700 Of 2021, Civil Miscellaneous Application
No. 14488 Of 2021

M/S Munjal Sanitations Through Its Proprietor

APPELLANT

Vs

Additional Commissioner Of Customs (Preventive)

RESPONDENT

Date of Decision : 02-08-2021

Acts Referred:

Customs Act, 1962 — Section 128

Citation : (2021) 08 DEL CK 0026

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Jyoti Singh, J

Bench : Division Bench

Advocate : Anjali Gupta, Piyush Piyush, Harpreet Singh, Arunesh Sharma

Final Decision : Disposed Of

Judgement

D. N. Patel, CJ

Proceedings have been conducted through video conferencing.

1. Present writ petition has been preferred seeking the following reliefs:-

â??(a). Issue a writ of Mandamus or any other appropriate Writ, direction or order directing learned Respondent to supply a copy of

Order-in-Original bearing No.17/SMA/ADC/2012 dated 09.04.2012 to the Petitioner.

(b). Issue a writ of Mandamus or any other appropriate writ, direction or Order directing learned Respondent to consider the date of

communication of impugned order pursuant to the order of this Honâ??ble Court to be the date of communication of order for the purpose

of Section 128 of the Act.

(c). Issue Rule Nisi in terms of prayers at (a) and (b) above and confirm the

same after hearing the parties.

(d). Award cost of this Petition; and / or

(e). Pass such other order(s) or direction (s) as this Honâ??ble Court may deem fit and proper in the facts and circumstances of the case

and in favour of the Petitioner in the interest of justice.â??

2. Learned counsel appearing for the Petitioner submits that the main relief sought in the writ petition is a direction to the Respondent to supply a copy

of the Order-in-Original bearing No.17/SMA/ADC/2012 dated 09.04.2012 to the Petitioner. Respondent has filed a counter-affidavit enclosing the said

order and thus, the Petitioner is now in receipt of the said order and the grievance stands satisfied.

3. Learned counsel, however, submits that a further direction be given to the Respondent to consider the date of communication of the impugned order

to be the date when the order was supplied to the Petitioner along with the counter-affidavit, for the purpose of Section 128 of the Customs Act, 1962.

4. We have heard the learned counsels for the parties.

5. Learned counsel for the Petitioner does not dispute the fact that Order-in-Original bearing No.17/SMA/ADC/2012 dated 09.04.2012 is an

appealable order before the Commissioner (Appeals) under Section 128 of the Customs Act, 1962.

6. In view of the aforesaid submission, the grievance ventilated by the Petitioner stands satisfied, as the order-in-original has been received by the

Petitioner. Needless to state, as and when an appeal is preferred by the Petitioner along with an application seeking condonation of delay, the

concerned Authority shall decide the same in accordance with law.

7. With these observations, the writ petition along with the pending application is disposed of.

8. We make it clear that we have not expressed any opinion on the merits of the case or on the issue of condonation of delay which shall be a matter

within the domain of the Competent Authority.