

(2023) 04 TP CK 0004
In the Tripura High Court
Case No : Writ Petition (C) No.187 Of 2023

M/S Swarupananda Trading Co.

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 05-04-2023

Acts Referred:

Customs Act, 1962 — Section 17, 18
Constitution Of India, 1949 — Article 226

Citation : (2023) 04 TP CK 0004

Hon'ble Judges : T. Amarnath Goud, J; Arindam Lodh, J

Bench : Division Bench

Advocate : T.K. Deb, T.K. Deb, Paramartha Datta

Final Decision : Disposed Of

Judgement

1. Heard Mr. T.K. Deb, learned counsel appearing for the petitioner. Also heard Mr. Bidyut Majumder, learned Deputy S.G.I. appearing for the respondent No.1- Union of India and Mr. Paramartha Datta, learned counsel appearing for the respondents No.2 and 3.

2. This instant writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondents to complete the final assessment and to release the bank guarantee.

3. The facts of the case, in brief, are that the petitioner in regular course of business had imported Soyabean oil consignments weighing 1,44,900 Kgs. from Bangladesh through Agartala Land Customs Station and presented three bills of entry dated 26.09.2020, 28.09.2020 and 13.01.2021 to the respondents-customs authority. The respondents authorities have not followed the Customs Assessment procedure as laid down under Section 17/18 of the Customs Act, 1962. Moreover, no assessment/clearance of the goods were made nor any order was passed in that regard and the goods were warehoused at Agartala Land Customs Station for months. The respondents had given an option to the

petitioner to take provisional release of the goods on furnishing bank guarantee of duty forgone in import. Petitioner submitted bank guarantee for release of the goods but neither the bank guarantee has been released by the respondents nor the final assessment has been made. Aggrieved thereby, the petitioner has preferred this writ petition to complete the final assessment and to release the bank guarantee. Hence, this case.

4. Petitioner has prayed for the following reliefs:

"(i) Admit the Petition and direct the Respondent Authorities to finalize the Provisional Assessment and/or to release the Bank Guarantee in terms of the ratio laid down in the judgement passed by this Hon'ble Court in the case No. WP(C) 855 of 2020 Piyush Banik vs. Union of India (Annexure-7) within such immediate time frame, as may be directed by this Hon'ble Court.

(ii) And/or be pleased to pass any such Order or Orders as the Hon'ble Court deems fit and proper."

5. Mr. T.K. Deb, learned counsel appearing for the petitioner, contends that the respondents-customs authority without following the provisions of the Customs Act wrongfully imposed bank guarantee upon the petitioner for release of the goods. Counsel also contends that the respondents even did not complete the final assessment and pass any orders. Counsel further contends that since the bank guarantee has not been released, the petitioner is facing serious financial hardship. Accordingly, he prays for directing the respondents to complete the final assessment and to release the bank guarantee.

On the other hand, Mr. Paramartha Datta, learned counsel appearing for the respondents No.2 and 3, prays for passing appropriate orders in accordance with law.

6. In view of submissions of learned counsel for the respective parties, the respondents are directed to complete the assessment and pass appropriate orders in accordance with law and release the bank guarantees if the petitioner is entitled to. This decision shall be taken within a period of three months from the date of receipt of the copy of this order.

7. With the above observation and direction, the writ petition is disposed of.

Pending application(s), if any, also stands disposed of.