

(2017) 12 DEL CK 0459

In the Delhi High Court

Case No : Civil Writ Petition No. 8717 Of 2017, Civil Miscellaneous Application No. 35723, 43275 Of 2017

Outokumpu Oyj

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 20-12-2017

Acts Referred:

Constitution Of India, 1950 — Article 226, 226(3), 323B
Customs Tariff (Identification, Assessment And Collection Of Anti-Dumping Duty On Custom Goods And For Determination Of Injuries) Rule 1995 — Rule 25
Customs Tariff Act, 1975 — Section 3, 3A, 8B, 9, 9A, 9A(1A), 9C
Customs Act, 1962 — Section 129C(1), 129C(2), 129C(5), 129C(6)

Citation : (2017) 12 DEL CK 0459

Hon'ble Judges : Sanjiv Khanna, J;Prathiba M. Singh, J

Bench : Division Bench

Advocate : P. Chidambaram, Naresh Thakur, Sanjay Natoni, Ashish Prasad, Sanjay Jain, Anurag Ahluwalia, Charitharth Bharti, Yuvraj Sharma, Tejaswita, Rajiv Nayar, Sandeep Sethi, Balbir Singh, Jitendra Singh, Vaibhav Sharma, Kartika Sharma

Judgement

Sanjiv Khanna, J

1. This order and judgment would decide the issue whether we should exercise our discretion and entertain the present writ petition inspite of the

statutory alternative remedy.

2. The writ petition prays for the following reliefs:

â??a. Issue a writ of Certiorari or Writ in the nature of Certiorari appropriate, or any other appropriate Writ, Order or Direction, strike/ read down the

Rule 25 of the Rules to be ultravires to Section 9A of the Act;

b. Issue a writ of Certiorari or Writ in the nature of Certiorari appropriate, or any other appropriate Writ, Order or Direction, quashing the Impugned

Findings dated 18.08.2017 issued by Respondent No. 2;

c. Issue a Writ of Mandamus, or Writ in the nature of Mandamus, or any other appropriate Writ, Order or Direction restricting the Respondents, from

acting upon the Impugned Notification;

d. Issue a Writ of Prohibition, or Writ in the nature of Prohibition, or any other appropriate Writ, Order or Direction restricting the Respondents, from

acting upon the Impugned Notification??

3. Amendment application CM No.43275/2017 seeks permission to amend the plaint to challenge notification no.52/2017 - Customs (ADD) dated

24.10.2017 thereby imposing anti-dumping duty, falling under the heading 7219 of the First Schedule to the Customs Tariff Act, 1975 for exports from

People's Republic of China, Korea, European Union, South Africa, Taiwan, Thailand and United States of America.

4. The petitioner is primarily aggrieved by the note below the table, specifying anti-dumping duty at the rate worked out as percentage of landed value

of import, which reads as under:

Note: The subject goods include cold-rolled Flat products of stainless steel of width greater than 1250 mm of all series not further worked than Cold

rolled (cold reduced) with a thickness of up to 4mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged), excluding the

following:

(a) Grades AISI 420 high carbon, 443,441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;

(b) Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper

Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei

(Taiwan).

2. Further, no anti-dumping duty shall be payable on imports of the subject goods if:

(i) an importer who imports the subject goods for end use in the same form without slitting; or

(ii) slitted it into 2 or more subject goods i.e. sizes above 1250 mm (for example a 2600 mm piece slitted into two 1300 mm size pieces),

Provided that the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

Explanation: Anti-dumping duty shall be payable on the imports of the subject goods if it is slitted for a combination of subject goods and below subject

goods size or below subject goods sizes, (For example, an 1800 mm piece being slit into a 1400 mm and a 400-mm piece or a 2200 mm piece is slit into

1400 mm and 800 mm or a 1400 mm piece being slit into 600, 500 & :300 mm sizes);

3. This notification shall remain in force up to and inclusive of the 10th December, 2020, unless revoked earlier, from the date of publication of this

notification in the Official Gazette and the anti-dumping duty shall be paid in Indian currency.

Explanation. - For the purposes of this notification, "Landed Value" shall be the assessable value as determined under the Customs Act, 1962 (52 of

1962) and all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act.

5. It is an accepted and admitted position that the notification can be challenged and questioned by an appeal under Section 9-C of the Customs Tariff

Act, 1975 (Tariff Act for short), which for the sake of convenience is reproduced below:

9C. (1) An appeal against the order of determination or review thereof regarding the existence, degree and effect of any subsidy or dumping in

relation to import of any article shall lie to the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act,

1962 (hereafter referred to as the Appellate Tribunal).

1 [(1A) An appeal under sub-section (1) shall be accompanied by a fee of fifteen thousand rupees.

(1B) Every application made before the Appellate Tribunal,-

(a) in an appeal under sub-section (1), for grant of stay or for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application shall be accompanied by a fee of five hundred rupees.

(2) Every appeal under this section shall be filed within ninety days of the date of order under appeal:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of

the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit, confirming, modifying or annulling the order appealed against.

(4) The provisions of sub-section (1), (2), (5) and (6) or section 129C of the Customs Act, 1962 shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962.

(5) Every appeal under sub-section (1) shall be heard by a Special Bench constituted by the President of the Appellate Tribunal for hearing such

appeals and such Bench shall consist of the President and not less than two members and shall include one judicial member and one technical

member.â??

The aforesaid provision stipulates that every statutory appeal is to be heard by a Special Bench to be constituted by the

President of the Appellate Tribunal i.e. Customs, Excise and Service Tax Appellate Tribunal. The Appellate Tribunal has powers as stated under

Sub-Sections 1, 2, 5 and 6 of Section 129 C of the Customs Act, 1962 (â??Actâ?? for short).

Parties accept that the Appellate Tribunal has the power to pass interim orders and grant stay.

6. The contention of the petitioner is that this court should entertain the present writ petition notwithstanding the alternative remedy in view of four

exceptions carved out by the Supreme Court in Whirlpool Corporation Vs. Registrar of Trade-marks, Mumbai & Ors. 1998 (8) SCC 1, namely,

enforcement of any fundamental right; violation of principle of natural justice; hearings or proceedings being wholly without jurisdiction; and when

vires of the enactment is challenged. Petitioner also relies upon Association of Synthetic Fibre Industry Vs. J.K. Industries Ltd. 2006 (199) E.L.T. 196

(S.C.).

7. During the course of hearing it was asserted that anti-dumping duty was imposed on Cold Rolled Stainless Steel (â??CRS Steelâ??, for short)

between 600 mm to 1250 mm in thickness. Consciously CRS Steel more than 1250 mm or less than 600 mm in thickness was excluded. Attempts by

domestic industries to include CRS Steel above 1250 mm were raised, considered and rejected on three earlier occasions. However, vide impugned

notification anti-circumvention duty has been imposed on CRS Steel above 1250 mm in an indirect manner vide the impugned note in the notification

by putting conditions which are wholly impracticable and incapable of being met. The petitioner is a manufacturer of CRS Steel in Finland and exports

the CRS Steel including sheets of 1250 mm and above in thickness to India. The petitioner submits that imposition of anti circumvention duty is

contrary to law on the following grounds:

[1] The order and reasoning by the Designated Authority which has been accepted by the Government, is incoherent and contradictory. Reference is

made to some tables in the report of the Designated Authority that anti dumping conversion duty was not justified, as there was no undercutting or

negative pricing in CRS Steel exported by the petitioner to India.

[2] The conditions stipulated for imposition of anti circumvention duty stipulated in Rule 25 of the Customs Tariff (Identification, Assessment and

Collection of Anti-dumping Duty on Custom Goods and for Determination of Injuries) Rule 1995 (‘‘Anti Dumping Rules’’, for short) were not

satisfied. Thus there is lack of jurisdiction.

[3] Fourth ‘‘ respondent ‘‘ had ‘‘ moved ‘‘ the ‘‘ anti-circumvention application before the designated authority on 21st September,

2015. Between 21st April, 2015 and 11th December, 2015 anti-dumping duty was not applicable/ imposed on imports of CRS Steel. Hence, the

application was not maintainable.

[4] Constitutional validity of Rule 25 of the Anti Dumping Rules has been challenged. Constitutional vires cannot be examined and decided by the

Appellate Tribunal.

8. There are a plethora of decisions of this Court repeatedly refusing to entertain the writ petitions impugning anti-dumping notification. Reference can

be made to order dated 16th May, 2017 passed in WP(C)No.2632/2017 Hindustan Lever Limited Vs. Union of India, order dated 24th July, 2017

passed in WP(C)No.6267/2017 M/s.Suncity Sheets Pvt. Ltd. Vs. The Designated Authority and Ors., order dated 31st October, 2017 passed in

WP(C)No.9284/2017 Indian Metals and Ferro Alloys Ltd. Vs. The Union of India & Ors. and order dated 4th September, 2017 passed in

WP(C)6430/2011 Deepak Nitrite Limited Vs. Union of India & Anr. These decisions follow an earlier decision in Alcatel-Lucent India Ltd. Vs.

Designated Authority 2016 (338 ELT 397 (Del.)

9. The respondents have contested each and every assertion made by the petitioner. They have specifically referred to the decision in Deepak Nitrite

Limited (Supra) wherein vires of Annexure- 3 of the Anti Dumping Rules were challenged. Referring to the decision of the Supreme Court in L.

Chandra Kumar Vs. Union of India (1997) 3 SCC 261 and the scope and ambit of the jurisdiction conferred on the Appellate Tribunal, it was observed

that the Tribunal constituted under Article 323-B of the Constitution of India, can consider challenge to the vires of the subordinate legislation.

10. We need not go that far in the present case for we find that the petitioner's challenge to vires is a misconception. The petitioner seeks consort

and relies on the said Rule.

11. The exact grounds raised in the writ petition challenging the vires of Rule 25 is as under:

â??III. RULE 25 OF THE RULES IS ULTRAVIRES TO SECTION 9A [1A] OF THE CUSTOMS TARIFF ACT, 1975

N. For that Section. 9A [1A] of the Act mandates satisfaction/ existence of pre-condition i.e. import of such article in an ""unassembled or dissembled

form for imposition of anti-dumping duty on account of circumvention.

0. Rule 25 of the Rules dealing with circumvention of anti-dumping duty has introduced conditions i.e. in an ""unassembled, unfinished or incomplete

form."" Therefore, when compared with Section 9A [1A], the Rule 25 has introduced various other preconditions thereby extending the scope of

invoking circumvention provisions. Thus, the Rule goes beyond the Act to the extent it has added the preconditions other than ""unassembled or

dissembled"" form. It is humbly submitted that ""unassembled or dissembled"" would essentially cover within its scope those products which can fall

under description of CKD or SKD. In the facts of the present case, the product of the petitioner cannot be said to fall under the said scope and

therefore the Rule itself is liable to be struck down or read down for being beyond the section.â??

12. The submission made is that sub-section (1A) to Section 9A of the Tariff Act permits imposition of anti circumvention duty only when

circumvention takes place either by altering the designation or name or composition of articles or by import of an article in an unassembled or

disassembled form or changing country or its origin for export. This is not correct. Sub-section (1A) to Section 9A, for the sake of clarity, is quoted

below:

“(1A) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty

imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such anti-dumping

duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner,

whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or

exported from such country, as the case may be.”

The section permits imposition of anti-circumvention duty also when imports take place into India in any other manner, whereby, the

anti dumping duty so imposed is rendered ineffective.

13. Faced with the aforesaid position it was contended on behalf of the petitioner that expression “any other manner” must have a nexus and link

whereby the anti-dumping duty so imposed is rendered ineffective, albeit we observe that this is not an aspect relevant when

we examine the question of constitutional vires of Rule 25 on the grounds raised. We would now refer to Rule 25 which is as under:

Rule 25. Circumvention of anti-dumping duty: (1) Where an article subject to anti-dumping duty is imported into India from any country including

the country of origin or country of export notified for the purpose of levy of anti dumping duty, in an unassembled, unfinished or incomplete form and is

assembled, finished or completed in India or in such country, such assembly, finishing or completion shall be considered to circumvent the anti dumping

duty in force if,-

(a) the operation started or increased after, or just prior to, the anti dumping investigations and the parts and components are imported from the

country of origin or country of export notified for purposes of levy of anti dumping duty; and

(b) the value consequent to assembly, finishing or completion operation is less

than thirty-five percent of the cost of assembled, finished or complete article.â??

Explanation I. â?" â??Valueâ?? means the cost of assembled, complete or finished article less value of imported parts or components

Explanation II. - For the purposes of calculating the â??valueâ?, expenses on account of payments relating to intellectual property rights, royalty, technical know-how fees and consultancy charges, shall not be taken into account.

(2) Where an article subject to anti dumping duty is imported into India from country of origin or country of export notified for the levy of anti-dumping

duty after being subjected to any process involving alteration of the description, name or composition of an article, such alteration shall be considered

to circumvent the anti dumping duty in force if the alteration of the description or name or composition of the article subject to anti dumping duty

results in the article being altered in form or appearance even in minor forms regardless of the variation of tariff classification, if any.

(3) Where an article subject to anti dumping duty is imported into India through exporters or producers or country not subject to anti dumping duty,

such exports shall be considered to circumvent the anti dumping duty in force if the exporters or producers notified for the levy of anti - dumping duty

change their trade practice, pattern of trade or channels of sales of the article in order to have their products exported to India through exporters or

producers or country not subject to anti dumping duty.

Explanation.- For the purposes of this sub-rule, it shall be established that there has been a change in trade practice, pattern of trade or channels of

sales if the following conditions are satisfied, namely: -

(a) absence of a justification, economic or otherwise, other than imposition of anti-dumping duty;

(b) evidence that the remedial effects of the anti-dumping duties are undermined in terms of the price and or the quality of like products.

Sub Rule (1) deals with the first part of Sub-Section (1A) to Section 9A. To this extent, therefore, the petitioner relies upon Sub-Rule (1) in support of

its contention that the anti-circumvention duty should not have been imposed. Referring to Sub -Rule (2) it is submitted that same would not be

applicable for the condition ""after being subjected to any process involving

alteration of the description, name or composition of article"" refers to process of alteration of description, name or composition, which should be before it is imported into India and not after it is imported into India. The respondent on the other hand has relied upon Sub-Rule (3). Be that as it may, we do not think there is any ground or reason mentioned in the writ petition which would justify a challenge to the vires of Rule 25 of the Anti-Dumping Rules on the pretext that it violates and is ultra vires to Section 9A (1A) of the Tariff Act and stipulates imposition of anti-circumvention duty beyond the scope and the ambit of the main enactment.

The petitioner, in fact, relies upon Rule 25 in support of his contention raised and urged before us in the writ petition.

14. Interpretation of the Rule and its applicability to a particular case and factual matrix, must be distinguished from the challenge to the vires of the Rule.

15. Review provided under Article 226 of the Constitution is an extraordinary remedy and the High Courts do not, as a matter of discretion, entertain

Writ Petitions when an equally efficacious remedy is available. This principle applies especially when a machinery is created by the Statute to remedy

and correct any wrong, when a right or liability is created by the same Statute, which also gives special remedy by way of appeal. The appellate

remedy should not normally, and as a routine, be circumvented and bypassed. The aforesaid principle or rule is a self-imposed restriction and a

restraint based on the principle of exhaustion of remedies. This ensures that the persons do not rush to the High Court for issue of a Writ, thereby

rendering the statutory provisions almost meaningless and non-existent.

16. Way back in 1957, in Union of India versus T.R. Verma, AIR 1957 SC 882, the Supreme Court had observed that where an alternative or an

equally efficacious remedy is open to a litigant, the litigant should be required to pursue that remedy and not invoke jurisdiction to issue a prerogative

writ. Existence of an alternative remedy does not affect the jurisdiction of the Court to issue a writ, but it would be a good exercise of discretion to

refuse to entertain a writ petition unless there are extenuating and special grounds. The reason is that the Writ Jurisdiction is not meant to correct

errors like appellate courts. When rights and duties are created by a Statute, which is meant to be a complete code, the parties should first exhaust the

remedies for redressal of grievance and correction of errors.

17. Following this dictum, the Writ Courts in the absence of exceptional circumstances have refused to entertain writ petitions and to proceed with

judicial review where the invoker has failed to exhaust or take recourse to alternative remedies. Requirement to exhaust the alternative remedies is

considered to be fair and just as legislation has created an avenue for redress. This makes access to justice available locally, prevents the Writ Courts

from being over-burdened with cases, and is based upon the precept that the appellate or specialized bodies have more expertise on the subject.

Sometimes it is observed that they are substitute for judicial review.

18. The prefix “wholly” before the term “jurisdiction” in Whirlpool Corporation (supra) is significant and not otiose. The term

“jurisdiction” in strict sense refers to the competence of the authority or the tribunal at the commencement of the proceedings. This requires

examination whether the jurisdiction was initially properly assumed. Thereafter, it is within the jurisdiction of the tribunal/authority to decide. This pure

theory of jurisdiction makes a distinction between jurisdictional questions of fact and law, which are sometimes also called as collateral facts and law,

and facts and law which are not jurisdictional (see Paripooran J.'s views as expressed in Mafatlal Industries Limited and Others versus Union of India

and Others, reported in (1997) 5 SCC 536, vide paragraphs 334 to 338 and pages 797 to 803 in Principles of Statutory Interpretation by G.P. Singh,

Thirteenth Edition, 2012). Referring to the aforesaid distinction, V.S. Deshpande, J. in R.K. Gupta versus Delhi Administration, ILR (1978) 2 Del 82,

had observed:-

7. The question arose for the first time if the words “any other remedy” in clause (3) of Article 226 included the remedy by way of suit after the

Constitution (42nd Amendment) Act, 1976. In resolving the question, the material reasoning should, in my opinion, be as follows:

(1) & (2) xxxx

(3) Grounds for awarding certiorari and prohibition, according to Prof. S.A. De Smith in “Judicial Reviews of Administrative Action” Third

Edition, pages 249 to 263, are (a) lack of Jurisdiction, (b) breach of the Rules of Natural Justice, (c) Error of law on the Face of the Record, and (d)

Fraud or Collusion. Initially, lack of jurisdiction was considered at the inception

only. Once the jurisdiction was legally assumed any error in its exercise was an error within jurisdiction not amounting to lack of jurisdiction. Later, however, judicial decisions, such as *Ridge v. Baldwin*, (1964) A.C. 40 (3), and *Anisminic Ltd. v. Foreign Compensation Commission*, (1969) 2 A.C. 147 (4), broadened the concept of jurisdiction to include error committed after initial assumption of jurisdiction. Similarly, the concept of error apparent on the face of the record was broadened to include any such error as would appear to be apparent to the particular Judge or Judges deciding a particular case.

19. As noticed above, the rule of exhaustion of remedy is not an absolute and inflexible rule and, therefore, the Writ Courts practice some degree of flexibility depending upon the facts of each case. A Writ can be entertained where the authority or tribunal lacks subject matter jurisdiction or has assumed jurisdiction in the absence of jurisdictional fact, for these are treated as pre-requisite for assuming jurisdiction at the inception. Such cases can be distinguished from cases where there are errors made in exercise of jurisdiction or sometimes even errors in excess of jurisdiction. These are treated as errors within the jurisdiction. For example, in the case of *Whirlpool Corporation (supra)*, a writ petition was filed challenging the notice issued by the Registrar on the ground that he had no power to issue such notice. The Supreme Court observed that the High Court was not right in dismissing the writ petition on the ground of failure to exhaust alternative remedy as the issue related to jurisdiction in strict sense. Reference was made to the earlier decision of the Constitution Bench in *Calcutta Discount Company Limited versus Income Tax Officer, Companies District I Calcutta and Another*, AIR 1961 SC 372, a case which related to re-opening of assessment by the Income Tax Officer. The question was whether the jurisdictional facts for reopening an assessment were satisfied or the Income Tax Officer was acting without jurisdiction.

20. As a matter of caution, we would observe that the Courts have held that it is undesirable to lay down inflexible rules and, therefore, the dictum with reference to the pure theory of jurisdiction may have limitations and cannot be applied as a universal principle. Nevertheless, it is necessary to keep in mind the distinction between lack of jurisdiction and an alleged error in exercise of jurisdiction, i.e. a wrong or erroneous order. Parameters for

interference in exercise of writ jurisdiction, inspite of alternative remedy in the two situations is different. In the former it is wider, while in the latter

the Writ Court would be extra cautious and good reasons would be required to side step alternative remedy. In the context of the present case, and

the submissions and counter to the same, it can, safely and without hesitation, be held that challenge is not to the lack of jurisdiction at the time of

initiation but to purported failure to correctly apply the law and exercise jurisdiction. These issues can be appropriately and properly dealt with in the

appellate proceedings. No special ground or reason is made out for the petitioner to ignore and to not adhere to and exercise the Statutory Appellate

right.

21. It may be relevant to state here that the petitioner had impleaded itself as a co-petitioner in Writ Petition (C) No. 3544/2016, M/s Suncity Sheets

Private Limited versus Union of India and Others, in which challenge was made to notification dated 19th February, 2016 initiating investigation into

circumvention duty on imports of CRS Steel sheets and coils of width above 1250 mm. By judgment dated 8th March, 2017, the challenge was

rejected by a Division Bench of this Court. The petitioner, no doubt, has filed Special Leave to Appeal against the said decision, which has been

granted, but without interim stay. The Designated Authority had thereafter submitted their report and thereupon notification No. 52/2017 dated 24th

October, 2017 has been issued by the Ministry of Finance.

22. In the aforesaid context of lack of jurisdiction, the petitioner had urged that the initiation of proceedings were bad, as the fourth respondent,

namely, M/s Jindal Stainless Steel Limited had moved an application for imposition of anti-circumvention duty on 21st September, 2015, i.e., during the

period between 21st April, 2015 and the 11th September, 2015, when anti-dumping duty was not in force. This point or issue has not been specifically

raised in the writ petition, but we find that there is also power of suo motu imposition. The writ petition, which is rather detailed, refers to earlier

applications moved by the fourth respondent for imposition of anti-dumping duty on CRS steel with the width of above 1250 mm, which was not

accepted at the time of issue of notification No.14/2010 dated 20th February, 2010, imposing anti-dumping duty with effect from 22nd April, 2009, mid-

term review resulting in notification dated 7th February, 2012, and then the

sunset review notification dated 11th December, 2015 continuing with the imposition of anti-dumping duty. The writ petition, in fact, refers to the application made by the fourth respondent in 2012 for initiation of anti-circumvention investigation and updating of the said application thereafter, pursuant to which notification No.14/01/2014-DGAD dated 19th February, 2016 was issued initiating circumvention proceedings. We have deemed it appropriate and proper to refer to the factual position as mentioned in the writ petition, only to highlight that the said aspect with regard to assumption of jurisdiction on the basis of application made by the fourth respondent would be appropriately appreciated and gone into in the appellate proceedings, and should not be made a subject matter of the writ proceedings circumventing"" and ignoring the statutory right to appeal.

23. In view of the aforesaid discussion, we are not inclined to entertain the present writ petition and leave it open to the petitioner to invoke the statutory remedy by way of appeal before the Appellate Tribunal. We clarify that the observations made above are for the purpose of deciding the present writ petition and would not be construed and treated as findings on merits on the question of imposition of anti-circumvention duty on CRS Steel, vide and in terms of the Note in the Notification No. 52/2017. We are, therefore, not issuing notice on the application for amendment of the writ petition. There would be no order as to costs.