

(2018) 05 CAL CK 0020
In the Calcutta High Court
Case No : W.P. No.127 of 2018

R.K. EXPORTS & ORS.

APPELLANT

Vs

UNION OF INDIA & ORS.

RESPONDENT

Date of Decision : 17-05-2018

Acts Referred:

Foreign Trade (Development & Regulation) Act, 1992 — Section 8
Customs Act, 1962 — Section 110A

Citation : (2018) 05 CAL CK 0020

Hon'ble Judges : TAPABRATA CHAKRABORTY J

Bench : Single Bench

Advocate : Mainak Bose, Shakeel Mohammed Akhtar, Robi Prosad Mookherjee, Debjani Roy

Final Decision : Disposed Off

Judgement

The present writ petition has been preferred challenging inter alia an order dated 9th November, 2017 passed by the respondent no.3 suspending the operation of the Importer & Exporter Code No.0217504175 allotted to the petitioner no.1.

Mr. Bose, learned advocate appearing for the petitioners submits that the impugned order is not sustainable in law inasmuch as the same has not been passed in consonance with the provisions of Section 8 of the Foreign Trade (Development & Regulation) Act, 1992 (in short, the said Act of 1992).

No notice was given informing the grounds on which it was proposed to suspend the petitioner no.1 and the petitioners were also not given a

reasonable opportunity of making a representation in writing and of being heard.

Mr. Mookherjee, learned advocate appearing for the respondents submits that steps have been taken in terms of a memo dated 26th October, 2017

issued by the Additional Director General of the Directorate of Revenue Intelligence (in short, DRI).

Mr. Bose, in reply, submits that in respect of the goods which were detained under DRI investigation, the petitioners submitted a representation to the

Commissioner of Customs (Port) seeking provisional release of the consignment of electronic and electrical goods under Section 110A of the Customs

Act, 1962. Such prayer was refused by an order dated 7th December, 2017. Challenging the same, a statutory appeal was preferred and the same

was allowed by an order dated 2nd January, 2018.

The contention of Mr. Bose that the impugned order dated 9th November, 2017 was passed without a prior notice and without granting an opportunity

of making a representation, could not be disputed by Mr. Mookherjee. Heard the learned advocates appearing for the respective parties and

considered the materials on record.

No prior notice was issued to the petitioner no.1 and no opportunity of making a representation and of being heard, as provided under Section 8 of the

said Act of 1992 was granted to the petitioners. On the said limited ground, the impugned order dated 9th November, 2017 passed by the respondent

no.3 is set aside. The respondent no.3 shall pass a fresh order upon complying with the provisions of Section 8 of the said Act of 1992 and

communicate the same to the petitioner no.1.

With the above observations and directions the writ petition being W.P. No. 127 of 2018 is disposed of. Urgent certified website copy of this order, if

applied for, be supplied to the parties subject to compliance with all requisite formalities.