

(2014) 02 CAL CK 0109
In the Calcutta High Court
Case No : W.P. No. 57 of 2014

Tushar Kanti Das

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 07-02-2014

Acts Referred:

Customs Act, 1962 — Section 110A

Citation : (2014) 304 ELT 352

Hon'ble Judges : Harish Tandon, J

Bench : Single Bench

Advocate : C.S. Jha and Agniswar Chowdhury, Advocate for the Appellant

Judgement

Harish Tandon, J.—This writ petition was taken up yesterday, but there was no appearance on behalf of the respondents. Although the learned Advocate appearing for the petitioner insisted for taking up the matter, but to give another chance, this Court directed this matter to be listed today. When the matter is again taken up today, there is no representation on behalf of the respondents. The petitioner again insisted for taking up the matter as the Department, despite repeated applications having taken out for provisional release of the goods, have been keeping silence and no decision as yet has been arrived or communicated to the petitioner.

2. The attention of the Court is drawn to the several applications filed by the petitioner before the Commissioner of Customs (Port), last of which is annexed at page 324 to the writ petition which was filed on 3rd January, 2014 which, according to the petitioner, has not been attended by the said authority and kept in suspended animation.

3. It appears from the said letter dated 3rd January, 2014 that the petitioner is seeking for a provisional release of the seized goods under the provision of Section 110A of the Customs Act, 1962 read with Regulation 2 of the Customs (Provisionally Duty Assessment) Regulations, 2011. According to the petitioner,

the goods seized by the said authorities are perishable in nature and will lose their marketable value if not released provisionally under the aforesaid provision.

4. In the absence of any counter assertion on behalf of the respondents as to the fate of the aforesaid application, this Court presumes that the request, made by the petitioner to the concerned authority for provisional release has not reached to its logical end. This Court feels that justice would be sub-served if the Commissioner of Customs (Port) is reminded of his statutory duties to dispose of the application taken out for provisional release of the seized goods.

5. Accordingly, the Commissioner of Customs (Port) is directed to take a decision on the application taken out by the petitioner seeking the provisional release of the seized goods within two weeks from the date of communication of this order in accordance with law. The said authority shall also provide personal hearing to the petitioner or his authorised representative and shall record the reasons upon all the points that may be taken before him including the point relating to the applicability of the provision, as quoted in the said letter dated 3rd January, 2014.

6. With these observations, the writ petition is disposed of. There will be no order as to costs.