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Appellant Vs. Respondent

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Dec-04-2013

Judge : Harish Tandon

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER
SHEET WP836of 2013 IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction ORIGINAL SIDE SRIKANT BAGLA And COMMISSIONER OF CUSTOMS (PORT) AND ORS.BEFORE: The Hon'ble JUSTICE HARISH TANDON Date : 4th December, 2013.

Mr.Achintya Kr.

Banerjee, Adv.SK.

Foridullah, Adv..for the petitioner.

Mr.R.N.Das, Adv.Mr.T.M.Siddiqui, Adv..for the respondent.

The Court: Let affidavit-in-opposition and affidavit-in-reply filed today be kept on record.

Petitioner filed a supplementary affidavit to contend that consignor to the goods confiscated by the Customs Authorities have agreed to take back those materials and also annexed the circular no.100/2003-CUS., dated 28-11-2003 issued by Ministry of Finance, Department of Revenue that no objection certificate from Reserve Bank of India is not necessary.

Mr.Das, learned Advocate appearing for the respondents however submits that the samples have been drawn and are sent to the laboratory for the testing whether the confiscated goods is hazardous or not.

The report of the laboratory has not reached the department as yet.

Mr.Das relies upon the Judgement of the Apex Court in case of : Research Foundation For Science, Technology & N.R.Policy versus Union of India 2012 (282) E.L.T.321 (S.C.) in support of his contention that the import of the hazardous / toxic wastes cannot be imported within the territory of the country and the Apex Court have directed the Central Government to take an appropriate steps in this regard.

It is still uncertain whether the confiscated goods are hazardous / toxic as the report has not been submitted by the laboratory where the samples are sent for testing.

The further points which remain to be uncertain is whether such confiscated goods can be allowed to be sent out of the territory of the country to the consignor as the consignor has consented to take back those materials or should await the decision of the Central Government to take an appropriate decisions after the testing report is submitted by the laboratory.

Since the issue evolved relates to public at large and their safety and security as well as the right life and health, this Court appoints Mr.J.P.Khaitan, learned Advocate.

Mr.Khaitan has amicus curiae to assist the Court.

Mr.Das, however, prays for sometime so that he can obtain the instruction from the Government relating to the above issues.

In view of the above, let this matter be fixed on 18th December, 2013 at 2 P.M.in the supplementary list.

(HARISH TANDON, J.) dg2

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