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W.P. No.15609(W) of 2018

Emami Agrotech Ltd.
Versus
Union of India & Ors.

Mr. Pratap Chatterjee, Sr. Adv.,
Mr. Utpal Majumder,
Mr. Pushan Kar,
Mr. Abhishek Banerjee ... for petitioner.

Mr. Prithu Dudhoria For Union of India.

Mr. Kaushik Dey For the DRI.

Mr. Amitabrata Roy,
Mr. Bhaskar Prosad Banerje,
Mr. P. Baidya For the customs.

The direction issued by the Intelligence Officer, Directorate of Revenue Intelligence dated August 16, 2018 is under challenge in the present writ petition.

Learned senior Advocate appearing for the petitioner submits that, the impugned writing purports to be an order under Section 110 of the Customs Act, 1962. The impugned order does not disclose the violations of law which is alleged against the petitioner. The impugned order is vitiated by non-application of mind. Moreover, the author of the letter exceeded his jurisdiction in giving directions to the adjudicating authority as to how an application under Section 110A of

the Act of 1962 is to be dealt with by such adjudicating authority. He emphasises the fact that, the import concerned is soyabean oil and that, the quality of the goods are deteriorating daily.

Learned Advocate appearing for the Directorate of Revenue Intelligence submits that, the petitioner is guilty of violations of various provisions of the Act of 1962. He identifies the provisions of the Act of 1962 which, according to him, the petitioner has violated. He submits that, the impugned writing cannot be construed to be a direction upon the adjudicating authority. The writing is a mere request to the adjudicating authority to act in a particular way.

The Customs and the Union of India are represented.

Apparently, the petitioner seeks to import soyabean oil into the country. The customs authorities have issued a notice under Section 110 of the Act of 1962 which is impugned in the present writ petition. The petitioner is yet to apply under Section 110A of the Act of 1962.

In such circumstances and in the event, the petitioner applies under Section 110A of the Act of 1962,

the adjudicating authority is requested to hear and consider such application as expeditiously as possible. Needless to say, the adjudicating authority will afford a reasonable opportunity of hearing to the petitioner. It is at liberty to hear such other parties and consult such other documents that he deems appropriate. It will pass a reasoned order which it will communicate to the parties it has heard forthwith.

It is expected that, the adjudicating authority completes the entire exercise within three weeks from the date of making of the application under Section 110 A of the Act of 1962.

The adjudicating authority will not be influenced, in any manner whatsoever, by any of the observations, directions or requests contained in the impugned writing dated August 16, 2018.

All contentions of the parties are kept open.

Since affidavits have not been invited, the allegations made in the writ petition are deemed to be denied.

WP No.15609(W) of 2018 is disposed of.

No order as to costs.

Urgent certified website copies of this order, if

applied for, be made available to the parties upon compliance of the requisite formalities.

(Debangsu Basak, J.)