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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 08.02.2024

+ **W.P.(C) 1815/2024 & CM APPLS. 7598-600/2024**

ANAND INTERNATIONAL AND ORS. Petitioner

versus

COMMISSIONER OF CUSTOMS. Respondents

Advocates who appeared in this case:

For the Appellant: Mr. Chinmaya Seth and Mr. A.K. Seth, Advocates.
For the Respondents: Mr. Hapreet Singh, Senior Standing Counsel with Mr. Suhani Mathur, Mr. Jatin Kumar Gaur and Mr. Gurpreet Singh Gulati, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks a direction to the respondent not to pass final order on the Show Cause Notice dated 20.10.2022.

2. Learned counsel for petitioner submits that petitioner had filed an interim reply to the Show Cause Notice on 26.08.2023 and had also sought an opportunity to cross-examine certain witnesses, which was denied. Accordingly, petitioner was constrained to approach the Customs Excise and Service Tax Appellate Tribunal (CESTAT) by way of an appeal being



Appeal No. C/55723/2023. He submits that arguments on the appeal have already been concluded and judgment has been reserved on 30.01.2024.

3. Learned counsel submits that on the same day after the arguments were reserved, by letter dated 30.01.2024, petitioner has been called upon to file a final reply and also to appear for hearing on 09.02.2024. Learned counsel submits that since the appeal of the petitioner has already been heard and judgment is reserved, in case respondent concludes the hearing on the Show Cause Notice, the same would cause grave prejudice to the petitioner.

4. Issue notice. Notice is accepted by learned counsel for respondent.

5. Learned counsel for respondent submits that the Show Cause Notice has to be adjudicated within a statutory period of one year in terms of Section 28 (9) of the Customs Act, 1962. He submits that at the request of the petitioner, the time was enlarged by a further period of one year as stipulated by the proviso to the said Section. He submits that since the period is likely to expire, the Adjudicating Authority has issued notice for concluding the proceedings.

6. Keeping in view the facts and circumstances of the case and specially in view the fact that the Tribunal has already heard the appeal of the petitioner and order is reserved, we direct that hearing on the Show Cause Notice be deferred till the order is pronounced by the CESTAT. Once the order is pronounced and subject to the said order, a period of two weeks be granted to the petitioner to file a final reply to the Show Cause



Notice and thereafter, the Adjudicating Authority may proceed further with the conclusion of the Show Cause Notice after giving an opportunity of personal hearing to the petitioner. It is clarified that the period spent in the disposal of the appeal before the CESTAT i.e., between the filing and the final order being passed, shall not be counted towards the period stipulated under Section 28 (9) of the Customs Act.

7. Petition is disposed of in the above terms.
8. *Dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

FEBRUARY 8, 2024

NA