2024:DHC:2778

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 04.04.2024

\+ CRL.M.C. 2718/2024, CRL.M.A. 10345/2024

MS GLOBUS INFOCOM LIMITED & ANR. ..... Petitioners

Through: Mr. Mudit Gupta, Mr. Lakshay Virvani and Ms. Pranaya Sahay, Advs.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS & ANR. ..... Respondents

Through: Mr. Jatin Kumar Gaur, Adv. on behalf of Mr. Harpreet Singh, Sr. Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

% **J U D G M E N T**

ANOOP KUMAR MENDIRATTA, J (ORAL)

CRL.M.A. 10344/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 2718/2024, CRL.M.A. 10345/2024

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of Criminal Complaint bearing No.2152/2023 pending adjudication before the Court of learned ACMM, New Delhi, Patiala House Courts and also the impugned summons issued purportedly pursuant to order dated 04.12.2023.

2. Issue notice. Learned counsel for the respondents appears on advance notice and accepts notice.

3. Learned counsel for the petitioners submits that pursuant to complaint filed by the respondents on 28.02.2023, the matter was put up for consideration for 22.03.2023. The same was further adjourned for 27.03.2023, 01.05.2023 and 08.07.2023 without taking cognizance on the complaint. It is also pointed out that on 08.07.2023, when the matter was initially taken up, the respondents/department sought time to file original documents and the matter was listed for 04.12.2023. However, thereafter, the matter was again taken up at 12.35 pm, whereby the documents filed on behalf of the department/respondents were taken on record and the matter was directed to be taken up on date already fixed i.e., 04.12.2023.

4. It is pointed out by learned counsel for the petitioners that the cognizance has not been taken on record nor the summons were directed to be issued against the petitioners/accused and on 04.12.2023, since there was no time left, the matter was put up for purpose already fixed for 08.04.2024.

It is urged that pursuant to order dated 04.12.2023 without even taking cognizance or any directions for issuing the summons against the petitioners, summons have been issued by the learned ACMM against the petitioners for 08.04.2024.

5. Learned counsel for the petitioners further submits that apart from the present complaint under the Customs Act, proceedings were also initiated by the department before the Principal Commissioner of Customs (Import), ICD, Tughlakabad, New Delhi, whereby the petitioners were held liable vide order dated 18.10.2021 for payment of differential customs duty alongwith penalty under Section 114A, 114AA and 112(a)(ii) & b(ii) of the Act respectively.

The aforesaid order was challenged by the petitioners before

CESTAT, Delhi by way of appeal and the order passed by Principal Commissioner of Customs (Import), ICD was remanded back vide order dated 13.12.2022. After remand, Principal Commissioner of Customs (Import), ICD is stated to have reconsidered the case vide order dated 15.09.2023 and dropped the proceedings initiated against the petitioners vide show-cause notice dated 29.12.2020

6. The grievance of the petitioners is that without taking the cognizance or passing any specific orders for issuance of the summons and without taking into consideration the order dated 15.09.2023 passed by Principal Commissioner of Customs (Import), ICD, the petitioners have been wrongly summoned.

7. Prima facie, the contentions raised by the learned counsel for the petitioners, on the basis of orders placed on record, appear to be of considerable merit. Considering the facts and circumstances of the case, it shall be appropriate that the aforesaid factual position is brought to the notice of the learned ACMM by the petitioners for consideration as the summons could not have been issued without any specific orders/directions for summoning the petitioners. However, in case the learned ACMM is of the opinion that the summons have been issued in accordance with law, petitioners shall be at liberty to file the proceedings afresh, challenging the summoning order in view of order dated 15.09.2023 passed by Principal Commissioner of Customs (Import), ICD. Learned ACMM shall also be at liberty to consider the order dated 15.09.2023 passed by Principal Commissioner of Customs (Import), ICD, which has been brought to the notice of this Court.

Also, the presence of the petitioners be exempted before the learned

ACMM for 08.04.2024 on an application being preferred in this regard through counsel.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned ACMM, Patiala House Courts, New Delhi for information and compliance.

ANOOP KUMAR MENDIRATTA, J.

APRIL 4, 2024/*akc*