



भारत सरकार

GOVERNMENT OF INDIA

सीमाशुल्क प्रधान आयुक्त का कार्यालय (विमानपत्तन व हवाई माल परिसर)

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (AIRPORT & A.C.C)

सीमाशुल्क सदन, 15/1 स्ट्रैंड रोड, कोलकाता- 700001

CUSTOM HOUSE, 15/1 STRAND ROAD, KOLKATA- 700001

टेलीफोन / TELEPHONE : 91-33-2243-5372

F.No. S33- 22/2017 Adjn (A & A)Dated-28.12.2021

To

Shri Navneet Kumar,

Flat No. 303, 3rd Floor,

Block: D-4, Kendriya Vihar Phase-II, 169,

Badra North, Shaktigarh, Birati, Kolkata- 700051.

Subject:-Intimation of Personal Hearing in respect of Show Cause Notice No. DRI/KZU/CF/Int-15/Enq-50/2017/Pt. Pasific dated 01.12.2017 issued by the Additional Director General, DRI, KZU under Section 124 of the Customs Act, 1962 in the matter of M/s Pasific Enterprises.

With reference to the above mentioned subject Show Cause Notice, kind attention is invited towards the judgment of the Hon'ble **High Court of Calcutta** in the matter of **Navneet Kumar Vs. Union of India, [2018 (362) ELT 17 (Cal)]** may be relied upon, wherein the Court passed the order dated **05.11.2019** in favour of the Department. The relevant portions of the Order are furnished below:-

"-----One has to look at Section 124 of the said Act. It says that on order confiscating any goods or imposing any penalty on any person shall be made without a notice in writing with the prior approval of an officer of Customs not below the rank of an Assistant Commissioner of Customs.

The question to be answered in this appeal is whether the Additional Director General, the Zonal unit, Kolkata of the DRI had the authority and the power to issue the SCN dated 02.12.2017.

*At the outset I observe that the argument made that the SCN had to be issued by a proper officer is incorrect. Section 2(34) of the said Act enacts that a proper officer is one who is assigned functions to be performed by that category of officer, by the Board or the Principal Commissioner of Customs or Commissioner of Customs. On 2nd May, 2012, the Board designated some officers to be proper officers. While designating such officers the function that each of such officers had to perform under a specified Section of the said Act was provided. Each of these Sections referred to a proper officer to discharge the functions specified in that Section. Section 124 is not one of those Sections. In Section 124 of the said Act, the power has been given to an officer of Customs not below the rank of an Assistant Commissioner of Customs to issue a SCN. There is no reference to a proper officer. In those circumstances, the argument of the respondent writ petitioners or the finding of the learned judge that **the impugned SCN had not been issued by a proper officer has no basis whatsoever and is rejected outright.***

---All the appeals are allowed. The impugned judgment and order dated 10.07.2018 is set aside. All interim orders are vacated. All the connected applications are disposed of by this order. All the writ applications are dismissed."

2. It is also informed that the Principal Commissioner of Customs (Airport & ACC Commissionerate), Kolkata has fixed the date of Personal Hearing, in virtual mode, i.e., through video conferencing facility, on **18.01.2022 at 02:45 P.M.**
3. Due to Covid pandemic and social distancing norms, the Personal Hearing will be conducted in virtual mode through **BharatVC App**. Hence you are requested to download the said App. in your Smart Phone/Desktop/Laptop and forward your Mobile Number having WhatsApp facility or your e-mail id, so that link for the said Personal Hearing can be forwarded to you.
4. The Noticee or Authorized Representative, appearing in virtual hearing is required to file scanned copy of Vakalatnama or authorization letter along with a copy

of photo ID card and contact details and any written submission to the adjudicating authority at e-mail address prcommr-apkolcus@gov.in, well before the PH date.

5. Accordingly, you are requested to attend the personal hearing in virtual mode before the Principal Commissioner of Customs (Airport & ACC Commissionerate), Kolkata on the above mentioned date and time with all reliable documents and submissions, if any, failing which the case will be decided on the basis of available records and submissions.

6. This issues with the approval of the Principal Commissioner of Customs (Airport & ACC Commissionerate), Kolkata.

Bheem Ratna Rawat
28/12/2024

(Bheem Ratna Rawat)

Joint Commissioner of Customs
Central Adjudication Cell (AP & ACC)
Custom House, Kolkata