



भारत सरकार/GOVERNMENT OF INDIA

सीमाशुल्क प्रधानआयुक्त का कार्यालय (विमानपत्तन व हवाई माल परिसर)
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (AIRPORT & A.C.C)
सीमाशुल्क सदन, 15/1 स्ट्रैंडरोड, कोलकाता- 700001
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F. No. S33-43/2020 Adjn (A&A)

Date: 25.04.2022

DIN : 2022 0476NL000000E328

Subject: Interim order in terms of the order dated 28.03.2022 of the Hon'ble High Court, Kolkata with respect to the Writ Petition No. 5104 of 2022 in the matter Show Cause Notice dated 24.09.2020 issued vide F.No. DRI/KZU/CF/ENQ-18(INT-04)/2020 in the matter of Smuggling of 88.871 Kg of goods declared as "Rough Stones Blue Sapphire" (Rough Precious Stones Blue Sapphire), vide Bills of Entry Nos.2218129 dated 27.02.2019, 2218131 dated 27.02.2019, 2218212 dated 27.02.2019, 2256335 dated 01.03.2019 and 2256692 dated 01.03.2019, filed by M/s. Duanphen Trading Private Limited by mis-declaring the description of the goods and value, in contraventions to Customs Act,1962 and the Allied Acts and Rules-reg.

Brief Facts of this case

An intelligence was developed by the Directorate of Revenue Intelligence to the effect that certain unscrupulous Importers of Surat, Mumbai, Jaipur, Tamil Nadu and New Delhi are importing goods declared as "rough precious stones & semi-precious stones" like Blue Sapphire, Ruby, etc. mainly from Hong Kong and Dubai, which are over-invoiced. As per the intelligence, while, the imported goods are of very inferior quality which do not have any value in the market, the value of these goods were declared before Indian Customs to be more than Rs. 36 lakh/kg. The modus operandi appears to be with the objective of sending illegal money out of



India in the guise of import payments leading to Trade Based Money Laundering as there is no Customs Duty on the said items and IGST payable is only 0.25%.

2. Investigation has been conducted by the DRI with respect to imports made by M/s. Duanphen Trading Private Limited as they have imported similar goods and cleared following the aforesaid modus operandi besides other importers.

3. The Directorate of Revenue Intelligence, Kolkata Zonal Unit has issued an SCN dated 24.09.2020 vide F.No. DRI/KZU/CF/ENQ-18(INT-04)/2020 in the matter of Smuggling of 88.871 Kg of goods declared as "Rough Stones Blue Sapphire" (Rough Precious Stones Blue Sapphire), vide Bills of Entry Nos.2218129 dated 27.02.2019, 2218131 dated 27.02.2019, 2218212 dated 27.02.2019, 2256335 dated 01.03.2019 and 2256692 dated 01.03.2019, by mis-declaring the description of the goods and value, in contraventions to Customs Act,1962 and the Allied Acts and Rules.

4. On receipt of the Show Cause Notice, the adjudication procedure was initiated and opportunities of personal hearings were granted to all the noticees of the subject Show Cause Notice. In the mean time, M/s. P.S. Shipping And Logistics, Shri Ashok Mishra, Shri Ashwini Mishra and Shri Aman Mishra and (noticee number 5, 6, 7 and 8 respectively) have filed a writ petition numbered at 5104 of 2022 before the Hon'ble High Court of Kolkata.

5. In this writ petition, petitioners have challenged the show-cause notice dated 24.09.2020 under section 124 of the Customs Act, 1962 issued by the Joint Director, Directorate of Revenue Intelligence (DRI), Kolkata Zonal Unit. The Hon'ble High Court has taken into record that the petitioners have filed objection against the aforesaid impugned show-cause notice challenging the jurisdiction of DRI authority concerned by relying on a judgement of the Supreme Court in the case of Canon (India) Pvt. Ltd. v. Commissioner of Customs, reported in 2021 (376) E.L.T. 3 (SC) which, according to the petitioners, is still pending. It is submitted on behalf of

