

I.A. No. 02/2019
and
I.A. No. 04/2019

IN

WP(C) No. 20 of 2018

M/S SIKKIM ORGANICS

PETITIONER (S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT (S)

Date: 05/03/2020

CORAM :

HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CJ.
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, J.

...

(Arup Kumar Goswami, CJ)

Heard Mr. Jorgay Namka, learned counsel along with Mr. Simeon Subba for the petitioner and Mr. B.K. Gupta, learned counsel for the respondents.

The writ petition filed by the petitioner in IA No. 02 of 2019 and 04 of 2019 was dismissed by an order dated 04.03.2019 taking a view that the learned Customs, Central Excise and Service Tax Appellate Tribunal, Kolkata was justified in dismissing the appeal filed by the petitioner on the ground that while filing the appeal before the Appellate Tribunal, the petitioner did not deposit the amount as required under Section 35F of the Central Excise Act, 1944, for short "the Act".

IA No. 02 of 2019 was filed with a prayer to direct the Appellate Tribunal to restore the appeal filed by the petitioner on requisite amount being deposited by the petitioner within the time-frame as may be fixed by this Court.

Today, Mr. Jorgay Namka, learned counsel for the petitioner has submitted that the petitioner is not in a position to pay the requisite amount in terms of Section 35F of the Act.

If that be the position, we have no alternative but to dismiss the IA.

Accordingly, IA No. 02 of 2019 stands dismissed.

IA No. 04 of 2019 is an application to stay the notice of demand dated 14.05.2019 issued by the respondent no. 3.

It has been pointed out by Mr. Namka that the aforesaid notice of demand is not the subject matter of any challenge till date.

If that be the position, we fail to comprehend how in absence of any challenge made thereto, this Court can pass any stay order.

Consequently, IA No. 04 of 2019 is also dismissed.

Judge

Chief Justice