

2. Learned counsel for petitioners has contested the issue, by filing listed applications including contempt application; that respondents have failed to comply with the order dated 02.08.2021. He further contends that consignments have been detained though he has paid the taxes as required in three modes including Rs.33,00,000/- as per show cause notice with regard to one consignment. Whereas case of respondents is that consignments were mis-declared therefore same have been detained and show cause notices have been issued; the authorities have to adjudicate the issue with regard to mis-declarations and in failing to pay proper duties.

3. Learned counsel for respondent No.6 contends that since petitioner is availing his space therefore petitioner is also liable to pay demurrage charges, however dispute with regard to mis-declaration and payment of duties is between the petitioner and official respondents. Learned counsel for respondent has relied upon order dated 11.08.2021 passed in CP No.D-4560/2021 which pertains to identical case wherein payment was made which also shows that after calculation of penalties, a certificate shall be issued with regard to release of consignments.

4. *Prima facie*, there is no denial to legal effects of referred order dated 02.08.2021 which categorically directs that “**Let all the consignments be released to the petitioner**” therefore, we are not diving into the merits of the case; assessment by the authorities as well as adjudication to be carried out pertaining to show cause notices rather find it in all fairness to confine ourselves to such direction, categorically contained in order dated 02.08.2021. It may

also safely be added that Section 83B(2) of Act gives right to Officers of the Custom for amending the *earlier* made assessment if declaration was '*fraudulent*' or '*misleading*'. This right is not subject to any *time-period* but '**at any time**'. Thus, in existence of categorical direction for release of **all** consignments it would not be justified to keep them detained, particularly when learned counsel for petitioners is ready to submit security with the Nazir of this court. Accordingly, order dated 02.08.2021 shall be complied with in its letter and spirit; petitioner shall submit security with regard to the amount as specified in the show cause notices except one consignment show cause notice which speaks about Rs.33,00,000/- which is disputed as petitioner has contended that he has paid that amount and such release certificate shall be issued.

5. Authorities shall continue their proceedings and would be at liberty to contest further with regard to release of security in their favour. Guarantee/Security as claimed by the official respondents shall include Rupees one million as claimed by respondent No.6. Adjudication Officer shall hear the petitioner without being influenced by the earlier assessment by the authorities. Attendance of the official respondents is hereby dispensed with. While parting it is clarified that there shall not be delay with regard to release of consignments in terms of above on the pretext of adjudication if any and Adjudication Officer would be competent to conclude the adjudication as per law.

To come up on 31.08.2021.

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