

\$~31

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11178/2022**

ASC CONSULTING PRIVATE  
LIMITED

..... Petitioner

Through: Mr Virag Gupta, Mr. Anukul Raj, Ms  
Divyanshi Mohan, Ms Nitika Raj and  
Mr. Anubhav Deep Singh, Advocates.

*versus*

UNION OF INDIA & ORS.

..... Respondent

Through: Mr Satish Kumar, Sr. Standing  
Counsel with Mr Anish Raj for  
respondent No. 1 & 2.  
Mr Anurag Ojha, Sr. Standing  
Counsel for respondent No. 2/CBIC.

**CORAM:**  
**HON'BLE MR JUSTICE RAJIV SHAKDHER**  
**HON'BLE MS JUSTICE TARA VITASTA GANJU**

**ORDER**  
**27.07.2022**

%

[Physical Hearing/Hybrid Hearing (as per request)]

**CM APPL. 32845/2022**

1. Allowed, subject to just exceptions.

**W.P.(C) 11178/2022 & CM APPL. 32846/2022** *[Application filed on  
behalf of the petitioner seeking directions]*

2. Issue notice.

2.1. Mr Satish Kumar, senior standing counsel, accepts notice on behalf of

W.P.(C) 11178/2022

Page 1 of 3

respondent nos. 1 & 2.

3. In view of the order that we propose to pass, for the moment, no notice needs to be issued to respondent no.3 i.e., Directorate General of Foreign Trade.

4. With the consent of the counsels for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

5. The substantive prayer made in the writ petition reads as follows:

*“(a) direct the Respondents to consider the Petitioner as Transferee for the purpose of clause 5(5) of the Notifications bearing No.76/2021-CUSTOMS (N.T.) dated 23.09.2021 and Notification No.77/2021-CUSTOMS (N.T) dated 24.09.2021;”*

6. In the instant petition, the petitioner, *inter alia*, asserts that it is in the business of trading in the transfer of Duty Credit Scrips.

7. The petitioner appears to be aggrieved by the fact that the notification burdens the transferee with liability.

7.1. In this behalf, reference is made to Clause 5(5) of the notification dated 24.09.2021 (Annexure P-2). For the sake of convenience, the said clause is extracted hereinafter:

*“The proper officer of Customs may, without prejudice to any action against the exporter, proceed for recovery of said duty credit amount from the transferee in the manner as provided in Section 142 of the said Act.”*

8. The record also shows that the petitioner has preferred a representation, dated 07.06.2022.

8.1. This representation is addressed to the Joint Secretary (Revenue),

W.P.(C) 11178/2022

Page 2 of 3

Ministry of Finance, (Department of Revenue), and copied to the Chairman, Central Board of Indirect Taxes and Customs (CBIC) as well as Director General, DFT, Directorate General of Foreign Trade.

8.2. The said representation is appended on page 52 of the case file and marked as Annexure-P4.

9. The writ petition is disposed of, with directions to respondent nos. 1 & 2, to deliberate on the representation made by the petitioner and thereafter, pass an appropriate speaking order.

9.1. This exercise will be completed by the respondent nos. 1 and 2 at the earliest, though not later than 12 weeks from the date of receipt of a copy of this order.

10. The writ petition is, accordingly, disposed of, in the aforesaid terms.

11. Consequently, pending applications shall also stand closed.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**JULY 27, 2022/sk**

*[Click here to check corrigendum, if any](#)*

*W.P.(C) 11178/2022*

*Page 3 of 3*

Signature Not Verified

Digitally Signed By: KAUSHAL  
KUMAR SACHDEV  
Signing Date: 04.08.2022  
19:39:12

