(2019) 11 CAL CK 0018

Calcutta High Court

Case No: Tender Of Mand Appl (MAT) No. 823, 824, 825, 826, 827, 828, 829, 830, 831, 833, 834, 835, 836, 844 Of 2018, Writ Petitions (WP) No. 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344, 3345, 3346, 3347, 3348, (W) Of 2018, Civil Application (CAN) No. 6689

Director General, Directorate of Revenue Intelligence & Anr		APPELLANT
	Vs	
Navneet Kumar & Ors		RESPONDENT

Date of Decision: Nov. 5, 2019

Acts Referred:

- Customs Act, 1962 - Section 2(34), 3, 4, 4(1), 5, 6, 108, 111(d), 111(f), 111(i), 111(l), 111(m), 112(a), 112(b), 114AA, 124
- Indian Revenue Services (Customs and Central Excise) Rules, 2016 - Rules 5, 5(1), Rules 5(5)
- Constitution Of India, 1950 - Article 309

Hon'ble Judges: Md. Nizamuddin, J; I. P. Mukerji, J

Bench: Division Bench

Advocate: S. K. Kapur, Kaushik Dey, Shaktinath Mukherjee, Abhrajit Mitra, Manas Dasgupta, Proshit Deb, Rajnish Kumar Kalawatia, S. Roy, Madhubanti Chakraborty, Soumya Ray, Anubrata Roy, Prasun Chakraborty,, Amitabrata Roy, Bhaskar Prosad Banerjee, Kaushik Chanda, Apurba Ghosh

Final Decision: Allowed/Disposed Of/ Dismissed

Judgement

I. P. Mukerji, J

The Directorate of Revenue Intelligence (hereinafter referred to as â€œthe appellantsâ€ which reference include the appellant authorities) acted on

reliable information received by it, to the effect that illegal importation of merchandise was being made from Dubai and Hong Kong to Kolkata through

its airport. They included items like cigarettes, pen drives, memory cards, RAM, watches, cameras, protein supplements, steroids, hormone

supplements, footwear, mobile accessories, mobile parts and so on. They were brought into India by a syndicate of dishonest persons operating all

over the country. On 5th June, 2017 the appellants made a raid and identified consignments which were described as â€œcourierâ€ and â€œgeneral

import consignmentsâ€. Out of them three â€œcourier consignmentsâ€ and sixteen â€œgeneral import consignmentsâ€ were examined at the air

cargo complex, Netaji Subhas Chandra Bose International Airport between 5th June, 2017 and 1st August, 2017. These nineteen consignments

comprised of the above goods. Their value was about Rs.195 crores. These officials found that they were being imported by gross mis-declaration of

their description, quantity and value which resulted in large scale import duty evasion. This syndicate of illegal importers acted through a network of

middlemen. Investigation revealed that Navneet Kumar, Deputy Commissioner, Vikky Kumar, Appraiser and Pranabananda Bala, Examining Officer

(EO) actively aided this syndicate. They are all respondents in the above batch of appeals. The value of the illegally imported items was

Rs.2,97,08,400/-. In the bill of entry which came into the hands of the appellants later it was found that the total assessable value was declared to be

only Rs.7,45,305/-.

Statements under Section 108 of the Customs Act, 1962 (the said Act) were obtained from the employees or agents of the customs brokers and the

conniving customs officials. It came to light that this syndicate was large, operating from Kolkata and Delhi. There was a network of smugglers aided

by customs brokers and select customs officials headed by Navneet Kumar. The smuggling activity included not only undervaluation or mis-

declaration of goods but also creation and fabrication of documents, creation, production and acceptance of fake valuation documents, constant

operation of this network through diverse mobile phones and so on. By the impugned show-cause notice dated 2nd December, 2017 the persons

named therein were asked to show-cause why:-

â€œa) the said seized goods imported under Airway Bill No.16083772415 dated 2.6.2017 and Bill of Entry No.9962773 dated 5.6.2017 in respect of

M/s Jash-Insha Exports Pvt. Ltd/-, valued at Rs.2,97,08,400/- should not be confiscated under Sections 111(d), 111(f), 111(i), 111(l) & 111(m) of the

Customs Act, 1962 on the grounds as discussed above;

b) penalty under Section 112 (a), Section 112(b) and Section 114AA of the Customs Act, 1962 should not be imposed on each one of them on the

grounds as discussed above.â€

The persons charged were given an opportunity to inspect the documents relied upon in the show-cause notice. They were given an opportunity to file

written replies with documentary evidence and to indicate whether they would like to be heard in the adjudication proceedings.

They did not respond to it by filing a reply. They did not want inspection of any document. Nor did they express a desire to be heard in the

adjudication. Hence they did not evince any intention of participating in the adjudication proceedings. They straightaway filed the instant writ

applications in this court. They attacked the show-cause notice. Their grounds were many. The salient ones are stated below:-

a) The officer who issued the show-cause notice, had no authority to issue it. He was not a proper officer under Section 2(34) of the said Act. The

show cause notice was invalid.

b) Chapter 14 of the said Act relates to confiscation, conveyance and imposition of penalty in relation to illegal importation of goods and evasion of

customs duty. The charged customs officials were not involved in these activities.

c) The aforesaid chapter deals with the levy of customs duty, its non-payment and the liability to pay together with interest and penalty. The charged

customs officials did not have this obligation.

d) The show-cause notice did not mention who was the owner of the goods and in whose possession they were which were conditions precedent to

issuing a show-cause notice under Section 124 of the said Act.

e) The show-cause notice showed pre-disposition of the appellants. They appeared to have pre-judged the allegations and made up their mind about

the guilt of the persons charged.

All the writ applications came up for hearing before a learned single judge of this court. Hearing was concluded on 6th June, 2018. It appears on

examination of this judgment that all other grounds made out in the writ applications except the one questioning the jurisdiction of the Additional

Director General of the Directorate of Revenue Intelligence, (hereinafter referred to as the Additional Director General) to issue a show-cause notice

under Section 124 of the said Act, were abandoned. This will appear from the following passage in the said judgment:

â€œAlthough the parties wanted to canvass other points, the contentions of the parties were limited to the question of lack of jurisdiction of the

Additional Director of Directorate of Revenue Intelligence to invoke the provisions of Section 124 of the Customs Act, 1962. The issue, therefore, that

falls for consideration in the writ petitions is whether the Additional Director of Directorate of Revenue Intelligence has the jurisdiction to invoke

Section 124 of the Act of 1962 or not.â€

An extensive common judgment in the writ applications was delivered on 10th July, 2018.

I narrate some of the findings:

â€œThe last of the notifications relied upon at the behest of the respondents is dated May 2, 2012. It is a notification bearing No.40/2012 and is issued

in exercise of powers conferred by Section 2(34) of the Act of 1962. It does not authorize an Additional Director General, Directorate of Revenue

Intelligence to discharge the functions under Section 124 of the Act of 1962. Section 2(34) of the Act of 1962 mandates that, an officer of the

Customs must be duly authorised, either by the Board or the Commissioner of Customs to discharge a function under the Act of 1962. In absence of

such authorization by the Board of the Commissioner of Customs under the Act of 1962, no officer can discharge any function under the Act of 1962

which he is not authorised to discharge. An appointee under Section 4 of the Act of 1962 requires an authorization under Section 2(34) to be

considered as proper officer to discharge the functions of a Customs Officer. An employee other than of Customs, entrusted with the discharge of

functions under the Act of 1962 would also require an authorization under Section 2(34) to be considered as a proper officer entitled to discharge

functions under the Act of 1962.....Therefore, the personnel of Directorate of Revenue Intelligence named in such notifications have not

been authorised to discharge any functions under the Act of 1962 by a conferment of authorization by the Board or the Commissioner of Customs

exercising powers under Section 2(34) of the Act of 1962.....An authorization under Section 2(34) of the Act of 1962 is sine quo non for

any officer of Customs or any officer entrusted under Section 6 of the Act of 1962.....Additional Director of Directorate of Revenue

Intelligence is not entitled to invoke Section 124 of the Customs Act, 1962. The impugned show-cause notices are quashed as being without

jurisdiction.â€

The Director General, Directorate of Revenue Intelligence and the Additional Director General are up in appeal against this common judgment and

order. One appeal has been preferred in each writ application.

Common arguments were made by both learned counsel, in the appeals. I propose to dispose of all the appeals by this common judgment.

The argument before the learned trial judge centered around whether the Additional Director General issuing the show-cause notice could be termed

as a proper officer under the said Act, the proper officer being the only authorised officer to issue such a notice. On appeal this point was almost

abandoned and a new point was raised by Mr. Shaktinath Mukherjee, learned senior advocate for the respondent writ petitioners, to which I shall refer

immediately. Although this point was not raised before the court below, we entertained this argument on appeal, instead of remanding the matter back

to the trial court for these reasons. We accepted the submission that this point was substantially a pure question of law. To decide on this point some

rules and notifications had to be gone into which the appeal court could easily do. If that was done then the dispute between the parties would be

finally resolved.

Mr. Kapur, learned senior counsel for the appellants was very firm in his submission that because of the impugned judgment and order the entire

process of issuance and adjudication of show-cause notices in customs and allied matters was thrown into jeopardy. He placed the said Act, the

notifications under Section 4 thereof, rules under Article 309 of the Constitution of India and the various departmental orders referred to below. There

was not a tinge of invalidity in the show cause notice or the proceedings under it. On the contrary, it was issued under proper authority, he said.

A new point introduced in appeal by Mr. Mukherjee was that under Section 4 of the said Act an officer of the Directorate of Revenue Intelligence

could be appointed as a customs officer but that officer had to be first recruited or selected as a customs officer under the rules made by the central

government under Article 309 of the Constitution of India and thereafter placed in the customs hierarchy in accordance with the said rules before he

could exercise the functions of a customs officer under Section 4 read with Section 124 of the said Act.

Discussion of Arguments and my findings:-

Let me read Article 309 of the Constitution of India. It is set out below:-

309. Recruitment and conditions of service of persons serving the Union or a State.- Subject to the provisions of this Constitution, Acts of the

appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with

the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of

the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the

State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that

behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of

any such Act.â€

Section 4 of the said Act is entitled â€œAppointment of officers of customsâ€. It provides that the Board (Central Board of Indirect Taxes and

Customs) may appoint such persons as it thinks fit to be officers of customs. Section 5 lays down that an officer of Customs may exercise the powers

and discharge the duties conferred or imposed on him under this Act. Section 3 specifies the classes of customs officers as follows:

3. Classes of officers of customs

There shall be the following classes of officers of customs, namely:â€

(a) Principal Chief Commissioner of Customs;

(b) Chief Commissioners of Customs;

(c) Principal Commissioners of Customs;

(d) Commissioners of Customs;

(e) Commissioners of Customs (Appeals);

(f) Joint Commissioners of Customs;

(g) Deputy Commissioners of Customs;

(h) Assistant Commissioners of Customs;

(i) such other class of officers of customs as may be appointed for the purposes of this Act.â€

On 7th July, 1997, in exercise of the powers conferred on it by sub-section 1 of Section 4 of the said Act, the Central Government inter alia, appointed

all officers of the Directorate of Revenue Intelligence as officers of Customs. By a subsequent notification dated 7th March, 2002 inter alia the

Additional Director General of Revenue Intelligence was appointed as the Principal Commissioner of Customs or Commissioner of Customs.

On 22nd April, 2016 the Department of Revenue, Ministry of Finance, Government of India exercising its powers under the proviso to Article 309 of

the Constitution made rules for the method of recruitment to various group â€˜Aâ€™ posts of the Indian Revenue Services (Customs and Central

Excise). Rules 5(1) and (5) said that the vacancies in the grade of Deputy Commissioner and above mentioned in Schedule I to those rules would be

filled up by promotion as specified in Schedule III. The post of Commissioner of Customs and Central Excise (Grade IV), was described as a senior

administrative grade. The incumbent was to be recruited by promotion on the basis of selection. The field of selection, grade and the minimum

qualifying service for promotion were mentioned in

Column 4 of Schedule III thereof as under:

â€œOfficers in the Junior Administrative Grade (Grade VI) in the pay band-3, Rs.15600-39100 with grade pay opf Rs.7600/- with eight years regular

service in the grade including service, if any, rendered in the Non Functional Selection Grade (Grade V); or Officers with seventeen years regular

service in Group â€˜Aâ€™ posts in the Service, out of which four years regular service shall be in the Junior Administrative Grade (Grade VI),

including services, if any, rendered in the Non Functional Selection Grade (Grade V).â€

One has to look at Section 124 of the said Act. It says that no 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 Directorate of Revenue

Intelligence had the authority and the power to issue the show-cause notice dated 2nd December, 2017.

At the outset I observe that the argument made that the show-cause notice 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 show-cause

notice. 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 show-cause notice had not been issued by a proper officer has no basis whatsoever and is rejected outright.

Examining Article 309, until a proper legislation is made, the President of India or the Governor or their nominees may make rules for the recruitment

and conditions of service for the services and posts over which they have jurisdiction. The said Act was enacted in 1962, much prior to these rules.

Section 4 provided that the Board may appoint such persons as it thinks fit as officers of Customs. The reference to â€œsuch personsâ€ is very

significant. This section gave wide powers to the Board to appoint any person as an officer in any class specified in Section 3 quoted above. This

simply signified that considering the exigencies, the type, nature and extent of service required and the dearth of existing officers to work in those

exigencies, the Board was given unfettered power to appoint any person to any grade or post mentioned in Section 3 of the said Act. Under Section 5

of the said Act, the officer appointed under Section 4 could discharge the functions required to be performed under the Act by an officer of that rank

and also of one of subordinate rank, subject to the restrictions imposed by the Board. Under Section 6, the central government has also similar powers.

In addition, the central government is empowered to appoint any central or state government officer or local authority to perform any function an

officer of customs.

Therefore, since the said rules came after the said Act, taking into account the mandate of Article 309, the rules of 22nd April, 2016 could not have

supplemented, altered or modified the above provisions of the said Act.

It was only by his unparalleled legal skill and vast experience that Mr. Mukherjee was able to maintain an argument based on Columns 3 and 4 of

Schedule III of the rules that the method of appointment under Section 4 of the said Act could only be through the procedure mentioned therein. If an

officer of the Directorate of Revenue Intelligence had to be appointed as a Customs officer under Section 4 the method of recruitment mentioned

under Columns 3 and 4 of Schedule III had to be followed. The said officer had to be recruited as a Customs officer following that procedure by

recruitment or promotion and thereafter the appointment under Section 4 could be made.

Learned Counsel argued that the Additional Director General had to be first appointed as Commissioner of Customs by promotion on the basis of

selection. This procedure was not followed. He could not have straightaway been appointed to the rank of Commissioner. Such post could only be

assumed by promotion on selection under the said rules under Article 309 of the Constitution. The appointment of the Additional Director General as

an officer of the customs was invalid, it was said. By reason of such invalidity he had no authority to issue the show cause notice. It was a nullity. No

proceeding could have been initiated by him thereunder.

It was a novel and ingenious argument. I am unable to accept any part of it.

The rules dated 22nd April, 2016 constitute norms for recruitment to various Group â€˜Aâ€™ posts in the Indian Revenue Service (Customs and

Central Excise Group â€" A). Rule 5 provides for filling up of the vacancies in any of the grades above Deputy Commissioner specified in Schedule I.

This schedule only refers to the Principal and Commissioner of customs. The method of recruitment is by promotion on selection as provided in rule 5

read with Schedule III columns 3 and 4.

First of all, this rule provided for filling up the vacancies in the Indian Revenue Service. Hence, if there was any vacancy in the post of Commissioner

of Customs and Central Excise (Grade IV), Senior Administration Grade, it was to be filled up through a selection process by promotion. The

Additional Director General was not appointed against any vacancy, in my judgment.

Section 4 of the said Act provides for appointment of any person to discharge the functions of, inter alia, the Commissioner of Customs. The breadth

of this section is very wide. Considering the exigency, the government has the power to appoint, inter alia, any person as the Commissioner of

Customs. This section provides a parallel and separate mode of recruitment distinct to the procedure mentioned in the said rules under Article 309, to

the post of Commissioner. The said section laid down that any person could be appointed as Commissioner of Customs, not confining itself to

appointments of â€œofficers of Customsâ€ as Commissioner or Principal Commissioner. Had that been so there could possibly been a source of

conflict between the said sections of the Act and the Article 309 rules. For both the above reasons, in my opinion, the recruitment rules for

recruitment, promotion and selection in the said 2016 rules do not apply, to the selection under Sections 4 and 6 of the said Act.

In any event, there is in my opinion no conflict between the said Act and the rules.

Let us assume the respondent writ petitionersâ€™ contention to be correct that there ought to have been compliance with the rule under Article 309

while exercising power under Section 4 of the said Act, to be correct the appellants have filed a supplementary affidavit affirmed by S. K. Jana on

20th September, 2019 annexing notifications and orders. By the notification dated 31st May, 2017, the Additional Director General being an officer in

the Indian Revenue Service was promoted to the grade of Commissioner of Customs and Central Excise. It was stated that on promotion to this grade

he was to be posted as Director General of Revenue Intelligence, Kolkata Zonal Unit on a temporary basis. When this was shown to Mr. Mukherjee,

learned counsel, he submitted that the appellant had the obligation to show that the notifications were gazetted. When the gazette notification was

shown then the submission was that proper circulation of the gazette had to be established.

All the above submissions are preposterous. If those submissions were to be entertained then every person accused whether by the police or by the

revenue authority in civil or criminal proceedings would turn around and question the person issuing the charge-sheet or notice, of his authority to do so

and threaten him by asking him to produce detailed evidence of his authority. This would throw into disarray the administrative machinery of the

government and create untold anarchy in our system.

There is a well established presumption that a government or an officer exercising statutory authority is acting regularly. The onus is on the person

challenging his authority to establish it. The respondent writ petitioners have miserably failed to even make out a semblance of a case.

The next point taken by Mr. Mukherjee was that the show-cause notice showed pre-disposition of mind, in the sense that it was worded in such a way

so as to suggest that instead of the allegations, findings of fact were made towards the persons charged.

The difference between an allegation and a statement of fact or finding is that the former is subject to proof whereas the latter is a proved or true

allegation, according to the maker. One has to scan the whole show-cause notice to ascertain its nature and purport, whether it makes allegations or

records findings. It is true that from paragraph numbers 63 to 75 of the show-cause notice the statements made therein are described as

â€œdiscussion and findings.â€ But paragraph No. 76 thereof clearly suggests that although the said statements were described as discussion and

findings, they were mere allegations because the persons charged were â€œcalled upon to show-cause why the seized goods should not be

confiscated and penalty should not be imposed.â€ They were also given an opportunity to inspect the documents relied upon, the details of which were

provided in the show-cause notice. They were also asked to submit â€œwritten repliesâ€ with documentary evidence. Furthermore, they were

requested to indicate whether they would like to be heard. A Customs officer issuing a show cause notice issuing a show-cause notice is not required

to know the intricacies of the law and its procedure. If the show-cause notice is considered as a whole it does not show any pre-disposition of mind.

In those circumstances, the Additional Director General was validly appointed and had the jurisdiction and power to issue the show-cause notice, in

my judgment.

The other argument of Mr. Mukherjee was that one officer could not occupy two posts. It is not supported by any authority. It is a very weak

argument. In any event that is not the position in this case. By the notification dated 7th March, 2002 the Additional Directors General, Directorate of

Revenue Intelligence posted at the Head Quarters at zonal/regional units were appointed as Commissioners of Customs under Section 4(1) of the said

Act. At that time the Article 309 rule dated 22nd April, 2016 had not been made.

The applicable part of the Article 309 rules did not mention about the creation of, appointment or transfer to any post. The notification dated 31st May,

2017 following these rules â€œpromotedâ€, inter alia, the Additional Director General to the â€œgradeâ€ of Commissioner of Customs with grade pay

of Rs.10,000/- â€œagainst the vacancies for the panel years 2014-15, 2015-16 and 2016-17â€ on provisional and ad hoc basis initially for a period of

one year with effect from the date of assumption of charge of the post or until further order whichever was earlier. Therefore, on a combined reading

of the said section and the said rules and notifications any Additional Director General as an Indian Revenue Service (Customs and Excise) Officer

promoted to the â€œgradeâ€ of Commissioner of Customs, temporarily would also discharge the powers and functions of the latter. It also added that

he was being posted as Director General of Revenue Intelligence, Kolkata. Hence, the above submission of learned counsel is wholly without any

basis and is rejected outright.

I will now deal with the cases cited by Mr. Mukherjee. Mr. Kapur did not cite any authority.

Punjab State Warehousing Corporation, Chandigarh vs. Manmohan Singh & Anr. reported in (2007) 9 SCC 337 states the general principle that any

appointment dehors the statute or the rules under Article 309 of the Constitution would be a nullity. The same principle was reiterated in Bhupendra

Nath Hazarika & Anr. Vs. State of Assam & Ors. reported in AIR 2013 SC 234, A.K. Bhatnagar & Ors. Vs. Union of India reported in (1991) 1

SCC 544, Municipal Corporation, Jabalpur Vs. Om Prakash Dubey reported in (2007) 1 SCC 373 and State of Orissa and Ors. Vs. Prasana Kumar

Sahoo reported in (2007) 15 SCC 129. State of M.P. and Ors. Vs. Lalit Kumar Verma reported in (2007) 1 SCC 575 were about appointments which

were irregular for being non-compliant with the relevant rules framed under Article 309. State of U.P & Ors. Vs. Desh Raj reported in (2007) 1 SCC

257 was a case dealing with the same principle and relating to regularisation of service.

In my judgment, although Section 4 of the said Act and the Article 309 rules operate in different fields, in this case there was compliance with both, as

discussed above.

The decision T. R. Pandey Vs. The Chief Commissioner, Andaman & Nicobar Islands of a division bench of this court reported in 1978 LAB I. C.

Page 41 spoke about the functions that the officer-in-charge in question could perform and what functions he could not perform, under the relevant

rules. The Division Bench remarked â€œan officer appointed to perform the current duties of an appointment can exercise administrative or financial

powers vested in the full-fledged incumbent of the post but he cannot exercise statutory power.â€ In the present case, Additional Director General

was appointed as the Commissioner of Customs. His power was not limited. He could perform all the functions of his post subject to any limitation

imposed by the board or the Central Government. There was none. This case has no application.

In Oryx Fisheries Private Limited Vs. Union of India & Ors. reported in (2010) 13 SCC 427 the Supreme court said that the charge-sheet must

mention the charges but not draw any conclusions. I have categorically held that if the subject show cause notice was read as a whole it could not be

said that the charges were stated as findings of facts or that it showed disposition of mind. Whatever was stated under the heading findings were

tentative findings or charges to be answered by the persons charged, as there was a provision in the show-cause notice inviting a reply, giving an

opportunity to the persons charged to inspect documents and to indicate whether he wanted a hearing. The officer issuing the show-cause notice was

not a lawyer but a customs officer. He was not supposed to know the intricacies of procedure or the exact legal language in which the show-cause

should be issued.

I do not think I am required to deal with the unreported decision in civil rules No. 2745(W) of 1973 (Santi Ranjan Ray vs. State of West Bengal)

decided on 24th December, 1973, as it dealt with the validity of transfer orders in a service matter.

What is most condemnable is that the respondent writ petitioners made gross suppression of facts and materials before the learned single judge. I am

amazed that they did not apprise the court below, through their learned counsel of the diverse rules and notifications discussed above, by which the

Directorate of Revenue Intelligence Officers were appointed as customs officers under Section 4 of the said Act and that before being so appointed,

the selection procedure specified in the said rules under Article 309 of the Constitution of India was also scrupulously observed. Furthermore, these

appointments were duly published in the official gazette. I have every reason to believe that the respondent writ petitioners were fully aware of these

rules and notifications and deliberately did not cause the court to be apprised of them. I am also very sad to note that the revenue defending the writ

applications also did not produce them before the learned single judge. Quite naturally, the learned single judge acting on documents which were far

from sufficient and misleading made the impugned judgment and order allowing the writ applications.

All the appeals are allowed. The impugned judgment and order dated 10th July, 2018 is set aside. All interim orders are vacated. All interim orders are

vacated. All the connected applications are disposed of by this order. All the writ applications are dismissed.

MAT Serial No. 14:

On the identical facts and for the same reasons this appeal (MAT 844 of 2018) is allowed. The impugned judgment and order dated 11th July, 2018 is

set aside. The writ application (WP No. 4112(W) of 2018 Rumaish Akhter Vs. Union of India & Ors.) is dismissed.

The connected application (CAN 9965 of 2018) is disposed of accordingly.

Certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree,

(Md. Nizamuddin, J.) (I. P. Mukerji, J.)

Later:-

MAT 823 of 2018

WP 3336(W) of 2018

CAN 6689 of 2018

& Ors.

Learned counsel for the respondent writ petitioners in each of the appeals prays for stay of operation of this judgment and order. Such prayer for stay

is considered and refused.