

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.33406 of 2015

M.Elangovan

... Petitioner

Vs

- 1 The Additional Commissioner of
Customs (Preventive) Customs House,
Rajaji Salai, Chennai-1.
- 2 The Additional Director
General of Revenue Intelligence,
No.25, Gopalakrishna Road,
T.Nagar, Chennai-17.
- 3 The Assistant Commissioner of
Customs (Export Examination),
Air Cargo Complex, Meenambakkam,
Chennai-27.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the 1st Respondent to consider the Petitioner representation dated 05.10.2015 for provisional release of his sandalwood weighing about 1786 kg. seized in connection with Show Cause Notice in F.No. DRI/CZU/VIII/48/ ENQ-01/INT-01/2014 dated 02.07.2014 issued by the 2nd Respondent in accordance with law.

For Petitioner : Mr.V.Sathish
For Respondents : Mr.K.Mohanamurali,
Standing counsel

ORDER

Heard the learned counsel appearing for the petitioner and Mr.K.Mohanamurali, learned standing counsel for the respondents.

2.The writ petition has been filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the 1st Respondent to consider the Petitioner's representation dated 05.10.2015 for provisional release of his sandalwood weighing about 1786 kg. seized in connection with Show Cause Notice in F.No. DRI/CZU/VIII/48/ ENQ-01/INT-01/2014, dated 02.07.2014, issued by the 2nd Respondent, in accordance with law.

3. It is the case of the petitioner that he and one Nandakumar are the partners of M/s A.S.Constructions and Lightings Company and they had purchased 2000Kgs. of sandalwood by Delivery Order No.80/2013 in C.No.8284/2013 "S" dated 02.12.2013 issued by the proceedings of the District Forest Officer, Tiurpathur, Tirupathur Division, for which, they have also paid sales tax and a Sales Tax clearance certificate was also issued by the District

Forest Officer. It is the submission of the petitioner that they have also obtained licence for the above said 2000 Kgs. of Sandalwood dated 14.12.2013 from the Jurisdictional officer. It is his further submission that after complying all the formalities they made handicrafts works in 45 pieces weighing 214.108 kgs. out of the above as per the export order given by M/s Geonet Exim, Hong Kong. When that being the case, while, transmitted the same with invoice through road to Chennai Air Port for export the same were seized by the third respondent so as to levy penalty. Based on the above said seizure, the remaining Sandalwoods weighing about 1786 Kgs. were kept in their office premises. While so, a show cause notice dated 02.07.2014 was issued by the 2nd respondent and adjudication is pending before the 1st respondent. Under such circumstances, the petitioner made a representation on 05.10.2015 to the first respondent seeking provisional release of the above said 1786 Kgs. of Sandalwood. Since the same was not considered and orders passed, the petitioner is before this court with the aforesaid prayer.

4. When the matter is taken up for hearing, learned counsel for the petitioner submits that it would be suffice, if a direction is given to the 1st respondent to dispose of the representation of the petitioner dated 05.10.2015 within a time frame, after affording due opportunity of personal hearing to the petitioner.

5. Learned Standing counsel appearing for the respondent would submit that the direction now sought for by the petitioner can be granted, however, the petitioner should also co-operate for the personal hearing.

6. Learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to co-operate if the date is fixed for hearing.

7. Considering the limited prayer now sought for by the learned counsel for the petitioner, without expressing anything with regard to the merits of the case, this writ petition is disposed of with the following directions:-

"The 1st respondent is directed to fix a date for affording personal hearing to the petitioner and inform the petitioner the date of personal hearing well in advance so as to enable him to attend the same without fail. After affording due opportunity to the petitioner of being heard and considering the submission both oral and documentary, the representation of the petitioner shall be taken into consideration on merits and in

accordance with law and necessary orders shall be passed on the same, within a period of six weeks from the date of receipt of a copy of this order".

The writ petition is disposed of with the above direction. No costs.

02.11.2015

Note: Issue on 06.11.2015

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To

- 1 The Additional Commissioner of Customs (Preventive) Customs House, Rajaji Salai, Chennai-1.
- 2 The Additional Director General of Revenue Intelligence, No.25, Gopalakrishna Road, T.Nagar, Chennai-17.
- 3 The Assistant Commissioner of Customs (Export Examination), Air Cargo Complex, Meenambakkam, Chennai-27.

R.MAHADEVAN, J.

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