IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.8173 and 8174 of 2015
& M.P.No.1 of 2015 in each W.P.

H.Mohamed Abdul Kadar	... Petitioner in W.P.No.8173 of 2015
S.A.Mohamed Rasik	... Petitioner in W.P.No.8174 of 2015

Vs.

The Joint Commissioner of Customs, Anna International Terminal, Chennai-600 027.	... Respondent in both the Writ Petitions

Writ Petition No.8173 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondent to provisionally release the gold seized, vide Mahazar, dated 18.02.2014 in terms of Section 110-A of the Customs Act, 1962.

Writ Petition No.8174 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondent to provisionally release the gold seized, vide Mahazar, dated 06.03.2014 in terms of Section 110-A of the Customs Act, 1962.

For petitioner in both petitions : Mr.Hari Radhakrishnan

For respondent in both petitions : Dr.M.Devendran,
Sr. Standing Counsel

ORDER

The petitioner in W.P.No.8173 of 2015 visited Kuala Lumpur, Malaysia and returned to Chennai on 18.02.2014. At that time, in the Customs Declaration Card, he declared that he was bringing 42" Sony LED TV and proceeded to Red Channel for payment of duty on the said LED TV wherein he was questioned by the Superintendent of Customs, Air Intelligence Unit (AIU), Chennai and was taken to AIU Room, where himself and his baggage were subjected to detailed examination. A Mahazar, dated 18.02.2014 was prepared by the Customs Authorities, in front of two witnesses, on the allegation that the petitioner concealed 351 grams of Gold, with an intention to smuggle the same, after which, even his travel documents and Customs Declaration Card were seized; apart from detaining the said TV, the said seized Gold was sealed and the statement(s) of the petitioner was recorded. He sent a letter dated 19.03.2014 to the Additional Commissioner of Customs (Airport), Chennai, praying to provisionally release the goods seized in terms of Section 110-A of the Customs Act. He sent another letter, dated 25.03.2014 to the respondent. Since there was no response, the petitioner in W.P.No.8173 of 2015, along with the petitioner in W.P.No.8174 of 2015, earlier filed W.P.Nos.9982 and 9983 of 2014 for release of the gold in terms of Section 110-A of the Customs Act, and this Court, by order dated 10.10.2014, observed that both the petitioners have to contest the adjudication proceedings by participating in the same in terms of the show cause notices dated 14.08.2014 and 04.09.2014. In the said order, this Court also granted liberty to both the petitioners to move the authorities for provisional release of the seized goods, and in such event, the authorities were directed to consider their representation in accordance with law. Despite the said order of this Court, dated 10.10.2014, the representation of the petitioner in W.P.No.9982 of 2014 was not considered and he was asked to participate in the adjudication process, vide letter dated 18.12.2014, to which he replied and subsequently, after correspondences between the parties, the date of personal hearing was ultimately fixed by the authorities on 05.02.2015. As there was no provisional release of the seized goods, he filed W.P.No.8173 of 2015.

2. Heard both sides and perused the material documents available on record.

3. It is seen that the petitioner in W.P.No.8173 of 2015 did not appear for the personal hearing fixed on 05.02.2015. Hence, in order to give a quietus to the issue, the petitioner in W.P.No.8173 of 2015

is directed to appear before the concerned authority on 14.08.2015 around 02.30 p.m., without fail, and on such appearance, the issue relating to the provisional release of the above said seized goods, shall be considered by the respondent/authority in the light of the representation already submitted by the petitioner in W.P.No.8173 of 2015 in that regard and appropriate orders be passed, on merits and in accordance with law, within a period of two weeks thereafter, by taking into consideration the provisions of Section 110-A of the Customs Act. W.P.No.8173 of 2015 is disposed of accordingly. No costs. The Miscellaneous Petition is closed.

4. Since it is submitted by the learned counsel for the petitioner that the prayer in W.P.No.8174 of 2015 has become infructuous, the same is dismissed as having become infructuous. No costs. The Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

cs

Copy to

The Joint Commissioner of Customs,
Anna International Terminal,
Chennai-600 027.

+1cc to Mr.M.Devendran, Advocate, S.R.No.40604
+2cc's to M/s.Hari Radhakrishnan, Advocate, S.R.No.40654 & 40655

W.P.Nos.8173 and 8174 of 2015

VD(CO)
CA(22/09/2015)