

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4/8/2016

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE D.KRISHNA KUMAR

Writ Appeal No.368 of 2015

Abhishek Mundhra

...

Appellant/Petitioner

Vs

The Additional Director General
Directorate General of Revenue Intelligence
25 Gopalakrishnan Road
T.Nagar
Chennai 600 017.

...Respondent/Respondent

Prayer: Writ Appeal Appeal filed under Clause 15 of the Letters Patent against the order dated 26/11/2014 passed in W.P.No.12136 of 2014.

This Writ Petition filed u/a.226 of the Constitution of India to issue a writ of certiorari to call for the records of the respondent relating to the Show Cause Notice dated 13.4.2014 in F.No.VIII/48/22/ 2013-DRI and to quash the same.

For appellant ... Mr.N.Muralikumaran

For respondent ... Mr.M.Santhana Raman
Standing Counsel

सत्यमेव जयते
J U D G M E N T

(Judgment of the Court was made by S.MANIKUMAR, J)

Challenge in this appeal is to an order, made in W.P.No.12136 of 2014, dated 26/11/2014, by which the learned Single Judge upheld the competence of the Additional Director General, Directorate General of Revenue Intelligence, Chennai in issuing the show cause notice, dated 13/4/2014, in F.No.VIII/48/22/2013-DRI. By the said show cause notice, the Additional Director General, Directorate General of Revenue Intelligence, Chennai/respondent therein has called upon the appellant

(i). to explain as to why the seized 15.16 kg of gold bars of foreign origin valued at Rs.4,53,89,040/- should not be confiscated under Sections 111 (d) and 111 (1) of the Customs Act, 1962, (Act) read with Section 120 (1) of the Act

(ii). why the seized packing material consisting of plastic box and Bengali Newspapers should not be confiscated under Section 118 of the Act and

(iii). why penalty should not be imposed on each of them under Section 112 of the Act.

2. On this day, when the matter came up for hearing, both the learned counsel for the parties submitted that subsequently, the adjudicating authority has passed an order in original, dated 17/2/2015, which is challenged in W.P.No.10816 of 2015.

3. Mr.N.Muralikumaran, representing Mr.McGan Law Firm, submitted that in W.P.No.10816 of 2015, notwithstanding the pendency of the present Writ Appeal No.368/2015, competence of the Additional Director General, Directorate General of Revenue Intelligence, Chennai in issuing show cause notice, dated 13/4/2014 has been raised, challenging the order in original dated 17/2/2015.

4. Mr.M.Santhanaraman, learned counsel appearing for the Additional Director General, Directorate General of Revenue Intelligence, Chennai/respondent submitted that in view of the finality of the show cause notice, dated 13/4/2014, which culminated in the order in original, dated 17/2/2015, instant Writ Appeal No.368/2015 has become infructuous and hence prayed for dismissal.

5. At this juncture, Mr.Muralikumaran representing M/s.McGan Law Firm submitted that in the event of dismissal of the instant Writ Appeal No.368 of 2015 as infructuous, the challenge to the order in original on the grounds inter alia as regards competence of the Additional Director General, Directorate General of Revenue Intelligence, should be left open.

6. Responding to the above, Mr.M.Santhana Raman, learned counsel appearing for the Additional Director General/respondent in this appeal submitted that it is always open to the appellant to raise all substantial questions of law.

7. Submission of the learned Standing counsel for the respondent is placed on record and thus, reserving the right of the appellant to raise all the substantial questions of law, including competence, instant Writ Appeal No.368 of 2015 is dismissed as infructuous. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

To Sub Asst. Registrar

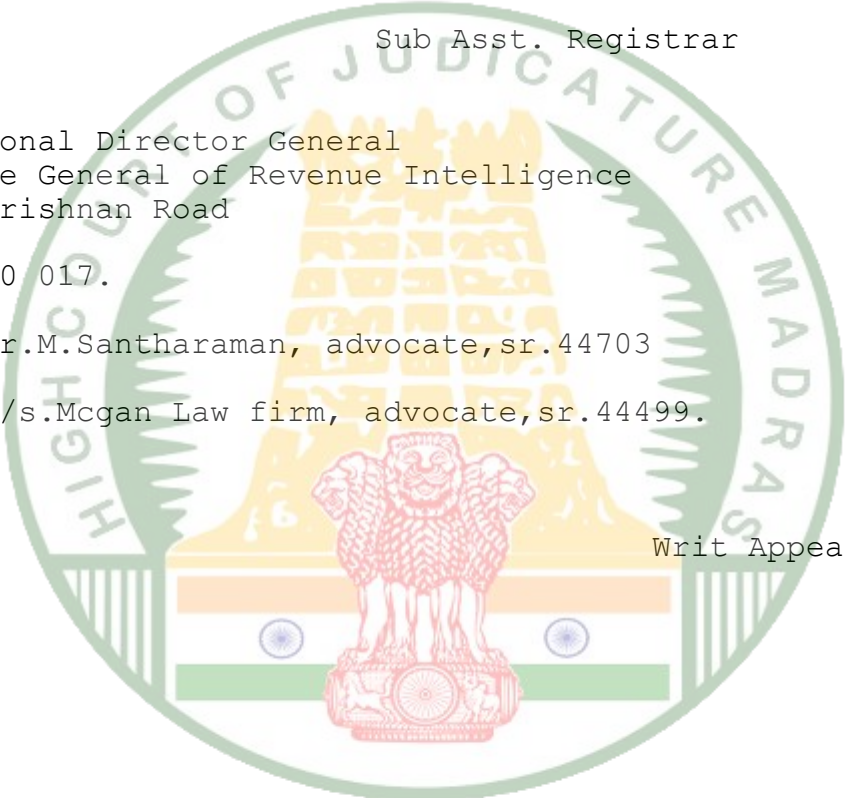
The Additional Director General
Directorate General of Revenue Intelligence
25 Gopalakrishnan Road
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Chennai 600 017.

+1 cc to Mr.M.Santharaman, advocate,sr.44703

+1 cc to M/s.Mcgan Law firm, advocate,sr.44499.

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