

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.11520 of 2015
and
M.P.Nos.1 and 2 of 2015

Naresh Kishore Badlani

...Petitioner

Vs.

1. Union of India,
rep. by its Secretary,
Ministry of Law and Justice,
Department of Legal Affairs,
Janpath, New Delhi - 110 001.
2. The Joint Commissioner of Customs,
Anna International Airport,
Chennai - 600 027.
3. The Commissioner of Customs,
Appeals, Customs House,
60, Rajaji Salai,
Chennai - 600 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the order, bearing Ref No.C.Cus-I, No.45/2015, dated 23.02.2015, passed by the third respondent, confirming the order, bearing Ref.No.O.S.926/2014AIU, dated 25.09.2014, passed by the second respondent in relation to confiscation of petitioner's goods and imposition of penalty, without issuing show cause notice and to quash the same as contrary to law, and consequently, to direct the second respondent to order return of the seized goods to the petitioner forthwith as laid down in the mandatory provisions of Section 110(2) of the Customs Act, 1962.

For Petitioner : Mr.A.K.Rajaraman
For Respondent-1 : Mr.A.Ramesh Kumar
For Respondents 2 and 3 : Mr.K.Mohanamurali
Senior Panel Counsel

O R D E R

Admittedly, as against the impugned order, the petitioner has an efficacious alternate remedy, by way of filing Appeal, this is more so in the instant case, because, it is to be factually determined as to whether the petitioner waived his rights to receive the show cause notice. Therefore, the petitioner can agitate this factual issue very well before the Tribunal, which could re-appreciate the facts. Hence, the petitioner should not be allowed to bypass the appellate remedy. Accordingly, the Writ Petition is closed, and liberty is granted to the petitioner to file an Appeal before the Tribunal as against the impugned order. If the Appeal is presented before the Tribunal, the Tribunal shall exclude the period from which the Writ Petition was pending, i.e., from 16.04.2015, till the date on which, certified copy of this order is received. No costs. Consequently, connected Miscellaneous Petitions are closed.
sd

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

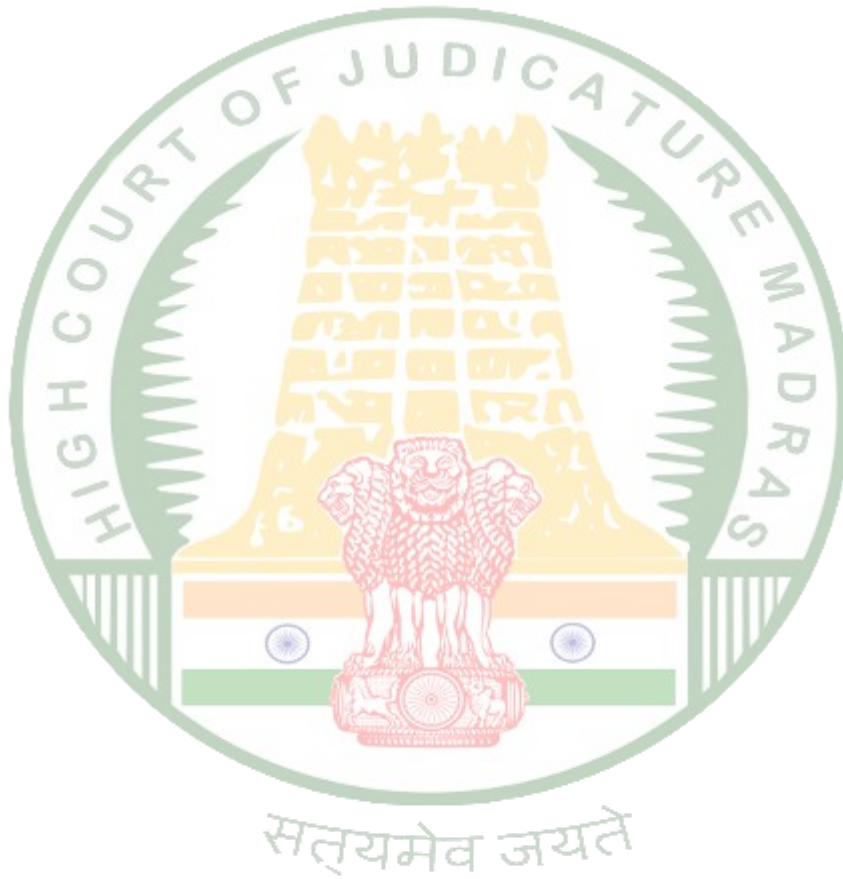
1. The Secretary, Union of India,
Ministry of Law and Justice,
Department of Legal Affairs,
Janpath, New Delhi - 110 001.
2. The Joint Commissioner of Customs,
Anna International Airport,
Chennai - 600 027.
3. The Commissioner of Customs,
Appeals, Customs House,
60, Rajaji Salai,
Chennai - 600 001.

+ 1 cc to Mr.K.Mohanamurali, Advocate Sr 29693

+ 1 cc to Mr.R.Sathish Kumar, Advocate Sr 29742

KR/15/6/16

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