

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.18913 of 2016

&

W.M.P.No.16502 of 2016

V.Senthil Kumar

... Petitioner

vs.

1. The Chief Commissioner of Customs
Customs House
No.60, Rajaji Salai
Chennai - 600 001
 2. The Principal Commissioner of Customs
(I), New Customs House, GST Road
Meenambakkam
Chennai - 600 027
 3. The Additional Commissioner of Customs
(Airport), Anna International Airport
New Customs House, GST Road
Meenambakkam, Chennai -2
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents herein to act on petitioner's representation dated 24.05.2016 and cause release of the gold jewellery totally weighing 692 gms, seized from the petitioner, in terms of the Order-in-Appeal in C.Cus.-I No.206/2015 dated 31.03.2016 passed by the Commissioner of Customs (Appeals I), Chennai.

For Petitioner : Mr.R.Sathish Sundar
For Respondents : Mr.T.Chandrasekaran
Senior Panel Counsel

O R D E R

The petitioner has filed this writ petition praying for issuance of a writ of mandamus to direct the respondent to consider his representation dated 24.05.2016 and give effect to the order passed by the Commissioner of Appeals in Order-in-Appeal in C.Cus-I No.206/2015 dated 31.03.2016. By the said order, the Commissioner of Appeals confirmed the order passed by

the Original Authority and directed return of Gold Jewellery to the petitioner. The petitioner seeks for implementation of the said order.

2. The learned Standing counsel appearing for the respondents submitted that the order passed by the Commissioner of Appeals has been received in their office on 31.05.2016 and they proposed to file a revision before the Revisional Authority for which they have got a limitation of three months.

3. In the light of the fact that the order of the Commissioner of Appeals has been passed only on 31.03.2016 and received on 31.05.2016, the respondents are directed to consider and take a decision on the petitioner's representation dated 24.05.2016 taking into consideration the observation made by the Commissioner of Appeals that it is not a case of ingenious concealment and the petitioner was wearing the jewellery and he was a domestic passenger and also the finding rendered by the Commissioner of Appeals that even if the petitioner had not declared in the domestic declaration form, yet there is no legal authority for such domestic passenger declaration form and notification No.12/12 CUS dated 17.03.2012 will not bind the petitioner. Further, the Commissioner of Appeals also distinguished the decision of the High Court of Delhi reported in 2015 (320) E.L.T.368 (Del) [Ramkumar Vs.Commissioner of Customs] relied on by the Department by holding that in the said case the passenger had attempted to export currency in a concealed manner and owner of the currency was not known, whereas the petitioner being a domestic passenger was carrying the jewellery and an unknown person is alleged to have given the gold jewellery to the petitioner and the said person is not traceable.

4. In view of the same, the respondent is directed to take a decision on the petitioner's representation dated 24.05.2016 by taking into consideration the fact that the Original Authority also passed an order in favour of the petitioner. The above direction shall be complied with within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above direction. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gpa

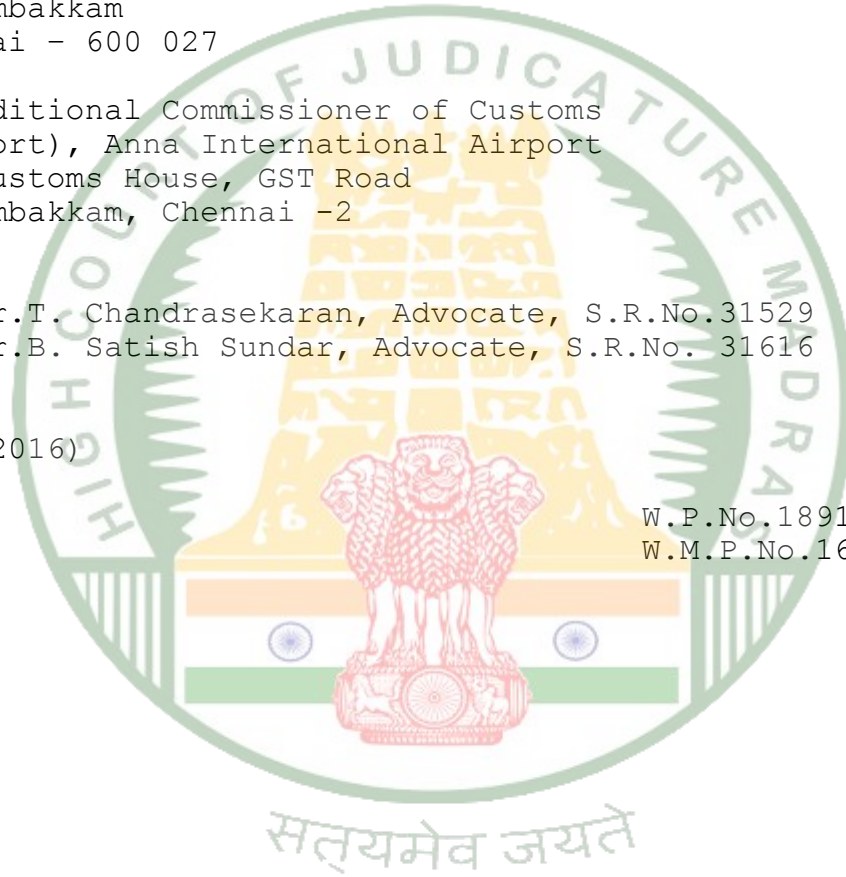
To

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(Airport), Anna International Airport
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+1cc to Mr.T. Chandrasekaran, Advocate, S.R.No.31529
+1cc to Mr.B. Satish Sundar, Advocate, S.R.No. 31616

NR(CO)
EU(24/06/2016)

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