

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27922 of 2016

M/s.Global Knitting Needs,
Block C1, 4th Floor, Door No.402,
Akshaya The Belvedere Apartment,
GST Road, Nandhivaram Village,
Guduvancherry, Chennai - 603 202.
Represented by its Managing Partner,
Shri J.Karthikeyan

.. Petitioner

Vs.

- 1.The Commissioner of Customs,
Chennai - VII Commissionerate
New Custom House,
Air Cargo Complex, Meenambakkam,
Chennai 600 027.
- 2.The Joint Commissioner of Customs, SIIB
Chennai - II Commissionerate
New Custom House,
Air Cargo Complex, Meenambakkam,
Chennai 600 027.
- 3.The Deputy Commissioner of Customs
SIIB, Chennai - VII Commissionerate
New Customs House,
Air Cargo Complex, Meenambakkam,
Chennai 600 027.

.. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to release the goods under seizure that is knitting needles of various sizes and description totally valued at more than Rs.60 lakhs and defreezing of bank accounts being held at Axis Bank Guduvancherry Branch, ING Vysya, Madipakkam Branch and also personal account in ICICI Bank, Teynampet, Chennai and also the back account of M/s.Power Knit, Chennai, which has no connection with the investigation being conducted by the respondent.

For Petitioner : Mr.N.Balaji

For Respondents : Mr.S.Seethalakshmi (Not Present)

ORDER

Heard Mr.N.Balaji, learned counsel for the petitioner. Though the respondent Department is represented by counsel, none appears for the respondents.

2.The petitioner seeks for issuance of a writ of mandamus to direct the respondents to release the goods under seizure and also to defreeze the petitioner's bank accounts.

3.When the case was heard on 15.07.2016, the learned counsel for the petitioner submitted that the petitioner has already submitted his reply to the show cause notice dated 29.02.2016 and the matter has been setting down for personal hearing. Therefore, he does not seek for release of the goods and he will participate in the adjudication. In the light of the said concession, one part of the prayer sought for in this writ petition need not be considered. The petitioner was concerned about the freezing of all his Bank accounts. The petitioner's case is that as on date they paid a sum of Rs.96,25,000/- and live consignments have been cleared. Therefore, the petitioner seeks for defreezing the Bank accounts as it has virtually crippled their business activities as they are not in a position to pay the salary for the employees, pay the electricity bills etc. Therefore, the matter was adjourned to enable the learned counsel for the respondent Department to get instruction in the matter.

4.However, today, the learned counsel for the respondents is absent. After hearing the learned counsel for the petitioner and perusing the materials placed on record, it is evidently clear that no specific request has been made by the petitioner to defreeze all the Bank accounts as set out by him before this Court. Therefore, before the petitioner had approached this Court, the petitioner should have made a comprehensive representation to the 3rd respondent, setting out clearly as to how much amount of duty they have remitted and also furnishing other related details.

5.One of the contention raised by the petitioner is that there is no power for the 3rd respondent to order for freezing of the accounts. This issue can also be raised before the 3rd respondent with regard to his jurisdiction to pass such orders.

6. In view of the above, the Writ Petition is disposed of, by directing the petitioner to submit a detailed representation to the 3rd respondent, setting out the amounts which they have paid as Customs Duty and make a request to the 3rd respondent to defreeze the accounts and along with the said representation, the petitioner shall enclose a copy of this order. On receipt of such representation, the 3rd respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of two weeks from the date of receipt of the representation along with a copy of this order, and communicate the same to the petitioner. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sgl

To

1. The Commissioner of Customs,
Chennai - VII Commissionerate
New Custom House,
Air Cargo Complex, Meenambakkam,
Chennai 600 027.
2. The Joint Commissioner of Customs, SIIB
Chennai - II Commissionerate
New Custom House,
Air Cargo Complex, Meenambakkam,
Chennai 600 027.
3. The Deputy Commissioner of Customs
SIIB, Chennai - VII Commissionerate
New Customs House,
Air Cargo Complex, Meenambakkam,
Chennai 600 027.

+1cc to M/S.B.Satish Sundar, Advocate Sr.41971
+1cc to Dr.S.Seethalakshmi, Advocate sr.42527

W.P.No.27922 of 2015

ppa[co]
srg 09/08/2016