

In the High Court of Judicature at Madras

Dated : 17.6.2016

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No.19960 to 19962 of 2016
& WMP.Nos.17212 to 17214 of 2016

Rabiya Bee ...Petitioner in WP.19960/2016
Mehrunissa ...Petitioner in WP.19961/2016
Mumtaz ...Petitioner in WP.19962/2016

Vs

- 1.The Principal Commissioner of Customs (Airport), Office of the Principal Commissioner of Customs Commissionerate-1, Chennai-27.
- 2.The Assistant Commissioner of Customs (Airport), Anna International Airport, Chennai-27.
- 3.The Commissioner of Customs (Appeals), Chennai-1. ...Respondents in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus directing the first respondent to implement the orders passed by the Commissioner of Customs (Appeals-I), Chennai vide (i) C4.-I/453/O/2015-Air; (ii) C4.-I/455/O/2015-Air; and (iii) C4.-I/454/O/2015-Air, in Order-in-*Appeal C.Cus.I No.586-588/ 2015 dated 30.9.2015;

For Petitioners : Mr.T.Chezhiyan

For Respondents : Mr.Vikram Ramakrishnan

COMMON ORDER

Heard both. By consent, the writ petitions are taken up for final disposal.

2. In these writ petitions, the petitioners seek a direction to the first respondent to implement the orders passed by the third respondent.

3. A show cause notice was issued to the petitioners calling upon them to show cause as to why the gold jewellery seized from them should not be confiscated and why penalty should not be imposed. The petitioners submitted their reply and an order was passed by the Adjudicating Officer on 30.4.2015, absolutely confiscating the jewels and imposing penalty on the petitioners.

4. As against the said order, the petitioners preferred appeals before the Commissioner (Appeals), who, by orders dated 30.9.2015, allowed the appeals and directed the jewels to be returned and imposed a penalty of Rs.10,000/- on each of the three writ petitioners. Since this order was not implemented, the petitioners have come up with the above writ petitions.

5. The learned Standing Counsel for the respondents submitted that challenging the orders passed by the Commissioner (Appeals) dated 30.9.2015, the Department filed revision applications before the Joint Secretary (Revision Application), Ministry of Finance, Department of Revenue, New Delhi and the papers have been dispatched on 11.5.2016. To prove the same, a letter written by the Assistant Commissioner of Customs, Review Cell dated 9.5.2016 has been produced. It is further submitted that the orders passed by the Commissioner (Appeals) dated 30.9.2015 were received by the Department only on 3.2.2016.

6. After hearing the learned counsel for the parties and perusing the materials placed on record, it is seen that the orders were passed by the Commissioner (Appeals) in September 2015, they have been dispatched on ***12/10/2015** and the petitioners received the same. However, the respondents seek to take note of the date of receipt of the orders by the Review Cell i.e. 3.2.2016.

7. Be that as it may, till date, the orders passed by the Commissioner (Appeals) have not been reversed or modified or stayed and even according to the respondents, the Review Cell received the orders on 3.2.2016, but they did not take any steps to file revisions till May 2016. Therefore, this is a fit and proper case where a direction should be issued to the respondents to implement the orders passed by the Commissioner (Appeals) subject to certain other conditions also.

8. In the light of the above, the writ petitions are disposed of directing the second respondent to return the jewels in question forthwith subject to the petitioners paying fine and penalty, if any ordered by the Commissioner (Appeals) and

executing a bond to produce the jewellery before the Department in the event of the revision applications filed before the Revisional Authority are allowed. The above direction shall be complied with within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the above MPs are closed.

Sd/-
Assistant Registrar(CS IV)

***Corrected as per the order
of this Court dated 29/06/2016
and made herein**

-s/d-

**Assistant Registrar(CSVI)
dt:04/06/2016**

//True Copy//

Sub Assistant Registrar

To

1.The Principal Commissioner of Customs (Airport), (To be substituted to the
Office of the Principal Commissioner of Customs (already despatch on 22.6.16
Commissionerate-1, (and made in WP.NOs.19960 to
Chennai-27. (19962 of 2016)

2.The Assistant Commissioner of Customs (Airport),
Anna International
Airport, Chennai-27.

3.The Commissioner of Customs (Appeals),
No.60, Rajaji Salai,
Cusyom House,
Chennai-1.

+2cc to Mr.T.Chezhiyan, Advocate sr.34065

***+1 cc to Mr.A.P.Srinivas Advocate sr.36620**

WP.Nos.19960 to 19962 of 2016&
WMP.Nos.17212 to 17214 of 2016

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