

In the High Court of Judicature at Madras

Dated : 03.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.38244 of 2016

Shri.Narendra M.Vasa

...Petitioner

Vs

1.The Additional Commissioner of
Customs (Adjudication-Air),
New Custom House, Chennai-27.

2.The Commissioner of Customs
(Airport & Air Cargo), New Custom
House, Chennai-27.

3.The Joint Secretary to Government
of India, Ministry of Finance,
Department of Revenue, 14,
Hudco Vishala Building, B Wing,
6th Floor, Bhikaji Cama Place,
New Delhi-66.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to release the two watches viz. Romain Jerome (Serial No.0131/1969401350) and Hublot (Serial Number 342-964903) forthwith in terms of Order-in-Appeal C.Cus.No.1799 & 1800/2013 dated 5.12.2013.

For Petitioner : Mr.S.Murugappan
For Respondents 1 & 2 : Mr.A.P.Srinivas

ORDER

Mr.A.P.Srinivas, learned Senior Panel Counsel accepts notice for respondents 1 and 2. Heard both. In view of the nature of the relief to be granted, the writ petition itself is taken up for final disposal without ordering notice to the third respondent.

2. The petitioner seeks a direction to the second respondent to release the two watches in terms of the order passed by the Commissioner (Appeals) in Order-in-Appeal No.1799 and 1800 of 2013 dated 5.12.2013.

3. Those two appeal petitions were filed by the petitioner challenging the Order-in-Original passed by the Additional Commissioner of Customs, Chennai. The appeals were allowed and the order of confiscation was set aside subject to payment of a redemption fine of Rs.80,000/- and personal penalty to the tune of Rs.10,000/-. The petitioner paid the redemption fine and is yet to pay the personal penalty. But, in the meantime, the Department filed a revision petition before the Central Government - the third respondent herein and the revision petition was taken on file by the third respondent sometime during 2013-14.

4. It is stated that till date, the revision petition has not been disposed of in spite of the petitioner's request for an early hearing.

5. Considering the facts and circumstances of the case, this is a fit case where appropriate direction should be issued to release the watches in question, upon the petitioner complying with the conditions as per the order

passed by the Commissioner (Appeals) dated 5.12.2013. Mere pendency of the revision petition before the Revisional Authority will not amount to an order of stay, that too when the revision petition is pending for more than three years. Further, the Department has not been able to obtain any orders from the Revisional Authority.

6. The learned Senior Panel Counsel appearing for respondents 1 and 2 submits that the petitioner may be directed to furnish a bond for the full value as ordered by this Court in other cases.

7. However, this Court is not inclined to issue any such direction in the instant case for the reason that the Department has not been able to move the Revisional Authority and obtain any orders for over three years. Having accepted the redemption fine from the petitioner, there is no justification on the part of the Department to refuse to comply with the Order-in-Appeal dated 5.12.2013.

8. Accordingly, the writ petition is disposed of directing the release of the goods in question forthwith on payment of the personal penalty to the tune of Rs.10,000/- (Rupees ten thousand only), as ordered by the Commissioner (Appeals), as already the petitioner paid the redemption fine to the tune of Rs.80,000/-. The goods shall be released within two days from the date, on which, the personal penalty is paid. No costs.

03.11.2016

RS

T.S.SIVAGNANAM,J
RS

Internet : Yes

To

- 1.The Additional Commissioner of Customs (Adjudication-Air),
New Custom House, Chennai-27.
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