

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.40323 of 2016

Habeeb Rahiman Thankayathil

.. Petitioner

...Vs...

The Commissioner of Customs (Appeals)
Customs House,
Rajaji Salai, Chennai 1.

.. Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondent to condone the delay of 13 months and to take up the appeal immediately without any further delay.

For Petitioner : Mr.T.Mathi

For Respondent : Dr.S.Seethalakshmi
Sr.Panel Counsel

O R D E R

Heard Mr.T.Mathi, learned counsel for the petitioner and Dr.S.Seethalakshmi, learned Senior Panel Counsel accepting notice on behalf of the respondent. By consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner seeks for issuance of a writ of mandamus to condone the delay in filing the Appeal as against the Order-in-Original dated 18.02.2015, in and by which, the respondent has ordered absolute confiscation of the Gold Bars and other products which have been brought by the petitioner.

3.The record of the proceedings show that the petitioner attempted to file Appeal before the Commissioner of Customs (Appeals), Chennai, but, it is stated that the Appeal Petition has not been received by the Office of the Commissioner of Customs (Appeals). However, this is only a submission made by the petitioner, but, there is no proof to show that the Office of the Commissioner of Customs (Appeals) refused to accept the Appeal.

4.If the petitioner is aggrieved by the order passed by the respondent dated 18.02.2015 in Order-in-Original No.97, he should prefer an Appeal and it is for the Appellate Authority viz. the Commissioner of Customs (Appeals) to pass order after considering the question of limitation after which the petitioner can work out his remedies in accordance with law.

5. Accordingly, liberty is given to the petitioner to file an Appeal before the Commissioner of Customs (Appeals), along with the copy of this order and the Commissioner of Customs (Appeals) shall consider the same as to whether the Appeal is maintainable or not and pass a speaking order and communicate the same to the petitioner.

The Writ Petition is disposed of on the above terms. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpa

To

The Commissioner of Customs (Appeals)
Customs House,
Rajaji Salai, Chennai 1.

+lcc to Mr.T. Mathi, Advocate, S.R.No.66766
+lcc to Mr.S. Sethalakshmi, Advocate, S.R.No.67152

vgi (CO)
cp(28/12/2016)

W.P.No. 40323 of 2016