

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.25797 of 1999

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The petitioner, a Chartered Accountant, has invoked the jurisdiction of this Court questioning the show cause notice issued by the Customs Authorities on the ground that the authorities lack jurisdiction to initiate action against the petitioner.

Sri Pratap Narayan Sanghi, learned counsel for the petitioner, would vehemently contend that, since the respondent lacked jurisdiction to proceed against the petitioner and to issue a notice asking him to show cause, a writ petition under Article 226 of the Constitution of India is maintainable, and this Court should hear the matter on merits.

While it is no doubt true that a writ petition would lie on the ground that statutory authority lacks jurisdiction to take action, nothing precludes the petitioner from raising the very same question, of lack of jurisdiction, before the respondent himself. The remedy under Article 226 of the Constitution of India is discretionary, and it is not necessary that in each and every case where a complaint is made of lack of jurisdiction, the writ petition should necessarily be entertained, more so where this question regarding lack of jurisdiction can be urged before the authority himself.

As this contention of lack of jurisdiction can as well be urged before the respondent, we consider it appropriate to dispose of the writ petition permitting the petitioner herein to raise the plea

of lack of jurisdiction, in their reply to the show cause notice, and directing the respondent to consider this contention, along with the other contentions urged in the reply to the show cause notice, and pass a reasoned order in accordance with law.

The writ petition stands disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

27th September 2016

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(U.DURGA PRASAD RAO, J)



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