

In the High Court of Judicature at Madras

Dated : 20.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.33338 of 2017 &  
WMP.Nos.36780 to 36782 of 2017

Shri.Mohamed Zackria

...Petitioner

Vs

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

2.The Additional Commissioner of  
Customs (CH-IV), Chennai IV  
Commissionerate, No.60,  
Rajaji Salai, Chennai-1.

3.The Assistant Commissioner of  
Customs, Revenue Recovery Unit,  
No.60, Rajaji Salai, Chennai-1.

...Respondents

PETITION under Article 226 of The Constitution of India  
praying for the issuance of a Writ of Certiorarified Mandamus to  
call for the records relating to the order dated 28.12.2015  
passed by the 2nd respondent in CAU/SIIB/ 28/2005-GR 7 DEEC in  
Original Order No:43726/2015 and consequential order dated  
02.2.2017 passed by the 3rd respondent in RRU/48/2017-DEEC,  
quash the same and direct the 2nd respondent to give opportunity  
of personal hearing to the petitioner for show cause notice  
dated 31.7.2003.

For Petitioner : Mr.Syed Mustafa

For Respondent : Mr.V.Sundareswaran, SPC

ORDER

Mr.V.Sundareswaran, learned Senior Panel Counsel accepts  
notice for the respondents. Heard both.

2. The petitioner has filed this writ petition challenging  
an Order-in-Original dated 28.12.2015.

3. Admittedly, there is an appeal remedy available to the petitioner, which he has not exhausted.

4. The petitioner pleaded certain circumstances, which prevented him from pursuing the appeal remedy.

5. The circumstances, as set out in the affidavit in support of this writ petition, are not sufficient to permit the petitioner to bypass the appeal remedy. Furthermore, the correctness of the impugned order cannot be tested without going into the factual matrix, much of which has been disputed by the petitioner. Therefore, the writ petition cannot be entertained.

6. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected WMPs are also dismissed.

7. However, this will not prevent the petitioner from working out his remedies in accordance with law under the provisions of the Customs Act, 1962.

Sd/-  
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

RS

To

- 1.The Commissioner of Customs (Appeals), Custom House, No.60, Rajaji Salai, Chennai-1.
- 2.The Additional Commissioner of Customs (CH-IV), Chennai IV Commissionerate, No.60, Rajaji Salai, Chennai-1.
- 3.The Assistant Commissioner of Customs, Revenue Recovery Unit, No.60, Rajaji Salai, Chennai-1.

+ 1 cc to Mr. R. Syed Mustafa, Advocate Sr.90890  
+ 1 cc to Mr.V. Sundareswaran, Advocate SR.91210

WP.No.33338 of 2017 & WMP.  
Nos.36780 to 36782 of 2017

DR. (CS)  
EU(09/01/2018)