IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29569 of 2010
and
M.P.No.1 of 2010

Surendran Balachandran .. Petitioner

Vs.

1.The Joint Secretary to the Government of India
(Revision Application),
Ministry of Finance (Department of Revenue),
14, Hudco Vishala Building, B-Wing,
6th Floor, Bhikaji Cama Place,
New Delhi-110 066.

2.The Commissioner of Customs (Appeals),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

3.The Joint Commissioner of Customs (Adjn.-Air),
Custom House, No.60, Rajaji Salai,
Chennai-600 001. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent, the Joint Secretary to the Government of India (Revision Application), Ministry of Finance (Department of Revenue), New Delhi, in Order No.164/10-CUS dated 15.04.2010 in Revision Application F.No.373/114/B/08-RA-CUS, confirming the order of the second respondent, the Commissioner of Customs (Appeals), Custom House, Chennai, in Order-in-Appeal No.C.CUS/366/2008 dated 25.09.2008 in Appeal No.C4/92/0/2008-Air and quash the same and to pass an order of direction directing to release the assorted foreign currencies without imposition of any redemption fine and penalty and to refund the fine and penalty paid by the petitioner.

For Petitioner .. Mr.K.Chozhan

For Respondents.. Mr.S.Rajasekar,
Senior Panel Counsel

ORDER

Heard Mr.K.Chozhan, learned counsel for the petitioner and Mr.S.Rajasekar, Senior Panel Counsel appearing for the respondents.

2.The petitioner is before this Court challenging the order passed by the first respondent, viz.the revisional authority, rejecting the revision application filed under Section 129-DD of the Customs Act, 1962. The petitioner, who is the holder of Indian Passport was bound for Shanghai via Kualalumpur by Flight MH 181 on 05.01.2007. While so, he was intercepted by the Air Intelligence Unit Officers of Air Customs, Chennai Airport. On being questioned and on examination of his hand baggage, foreign currencies equivalent to the value of Rs.9,16,861/- were recovered and the same was confiscated and proceedings were initiated. Ultimately, an order was passed giving a direction to redeem the foreign currencies on payment of a redemption fine of Rs.1,25,000/- and a personal penalty of Rs.75,000/-. This order was challenged by the petitioner by filing an appeal before the second respondent. The second respondent, though upheld the order of adjudication, showed some leniency and reduced the redemption fine to Rs.85,000/- and the personal penalty to Rs.28,000/-. Not satisfied with the said reduction, the petitioner filed a revision under Section 129-DD of the Customs Act. The revisional authority, after considering the matter independently and taking note of the factual matrix which was undisputed, held that the reduction of the redemption fine and penalty by the order passed by the Commissioner of Customs (Appeals) cannot be treated as harsh and there is no reason for the revisional authority to interfere with the Order-in-Appeal. This order is challenged before this Court by the petitioner.

3.Three fact finding authorities have dealt with the matter, rendered factual findings and have assigned independent reasons for their conclusions. This Court, exercising jurisdiction under Article 226 of the Constitution of India, will not examine the correctness of the impugned order as if it is acting as the fourth appellate authority over the findings recorded by the three respondents. As pointed out by the revisional authority, the Commissioner of Customs (Appeals), the second respondent, has granted reasonable relief to the petitioner considering the proven misconduct of the petitioner. Thus no grounds have been made out to interfere with the impugned proceedings and accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KM

To

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Chennai-600 001.

+1cc to Mr.A.K.Jayaraj, Advocate sr.64049

+1cc to Mr.S.Rajasekar, Advocate sr.64620

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pvs(co)
ss(3/10/2017)