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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 222/2017 & CRL.M.A. 1391-1392/2017

PRADEEP KUMAR

..... Petitioner

Through: Mr. V.V. Gautam, Abhishek Sharma,
and Jitender Chaudhary, Adv.

versus

JOINT DIRECTOR DRI DELHI ZONAL UNIT & ORS.

..... Respondent

Through: Mr. Satish Aggarwala, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

24.01.2017

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Issue notice. Notice is accepted on behalf of the respondent by Mr. Aggarwala. By this petition, the petitioner seeks a writ in the nature of certiorari for quashing and setting aside the investigation/ inquiry initiated by the respondent/ DRI and the summons issued to the petitioner. The case of the petitioner is that he is not the importer. He was issued summons under Section 108 of the Customs Act (the Act). He participated in the inquiry. The petitioner claims that he was beaten black and blue and has been threatened to deposit Rs.50 lacs. He claims that his statement was extracted by the respondents. He claims that he has retracted his statement.

All the aforesaid claims and allegations cannot be a reason to quash the investigation/ inquiry initiated by the respondent in relation to breach of the Act. Notice under Section 108 of the Act can be issued to any person whose attendance is considered necessary either to give evidence or to produce documents or any other thing in any inquiry which an officer is making under the Act. The grievance raised by the petitioner can be agitated in appropriate proceedings, and this court is not the forum for the said purpose.

Lastly, learned counsel for the petitioner has submitted that in case the petitioner is issued any fresh notice under Section 108 of the Act, he may be permitted to be accompanied by his counsel. He submits that orders in this respect have been passed by this court in several other cases including ***Abhishek Agrawalla v. Commissioner of Customs***, 2016 (341) ELT 43 (Del).

To this limited extent, the prayer of the petitioner is allowed. In case the petitioner is issued notice once again under Section 108 of the Act, he shall be entitled to be accompanied by his counsel, who shall remain present during the questioning of the petitioner. The counsel shall, however, be seated and remain in a visible distance of the petitioner and the officers who are questioning the petitioner, but he shall not be in the hearing distance at the time of questioning.

The respondents have desired that the petitioner should appear before the concerned officer on 02.02.2017 at 11:00 a.m. for recording his statement.

The petitioner is given notice of the same and this notice shall be deemed to be a notice under Section 108 of the Act. No further notice shall

be required to be served on the petitioner.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

JANUARY 24, 2017

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