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*IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ W.P. (C) 1429/2017, CM APPL.6545-6546/2017

SANJAY GOYAL ..... Petitioner
Through: Mr. Kumar Vikram, Advocate.

versus

COMMISSIONER OF CUSTOMS ..... Respondent
Through: Mr. Sanjeev Narula with Mr. Abhishek Ghai, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE V. KAMESWAR RAO

O R D E R

% 17.02.2017

The petitioner impugned the demand issued by the respondents, i.e., Customs Department on 09.02.2016 claiming that the recovery to the tune of in excess of ₹87 lacs is unjustified and not authorised by law. By an Order-in-Original dated 17.03.2005, the petitioner's proprietorship concern Ashoka Metal Industries was asked to pay customs duty on 183.013 MTs of copper scrap valued at ₹1,01,20,057/- which was also held to be liable for confiscation. The Adjudicating Officer imposed a redemption fine of ₹8 lacs on the noticee in Ashoka Metal Industries as well as a fine of ₹2 lacs. In addition, penalty of ₹38,96,221/- under Section 114A of the Customs

Act and the duty for the like amount, i.e., ₹38,96,221/- under Section 28 of the Customs Act was also imposed. The personal penalty was imposed on the present petitioner, i.e., the proprietor as well as two other individuals. The petitioner carried the matter in appeal to the CESTAT which rejected it. His further appeal to this Court was dismissed; he met with the similar fate with the review proceedings. Ultimately, even the SLP was rejected. He contends that the amounts demanded are excessive given that he has deposited the liabilities.

The petition is bereft of any particulars as to when the duty and penalty (in excess of ₹77 lakhs imposed upon the petitioner's proprietorship concern + a further sum of ₹10 lacs constituting the redemption fine imposed on the goods provisionally released) were paid. Instead the petitioner seeks to contend that the payment of personal penalty of ₹8 lacs imposed on him under Section 112 of the Act absolves him of all liabilities.

As is evident from the above discussion, the amounts towards basic customs duty and the penalty, as well as the redemption fine and differential duty are also in issue. That the petitioner apparently paid the sum of ₹8 lacs towards personal penalty under no circumstances can be said to discharge him of the liability to pay the balance amount that he was responsible for as the sole proprietor of Ashoka Metal Industries. Considering that what he is in substance seeking is discharge from his entire liabilities without disclosing if and when the amounts were paid, the Court is of the opinion that there is no question of any fallacy in the demands made. The present petition is a glaring abuse of the process of Court. In the circumstances, the writ petition is dismissed. The petitioner shall deposit costs of this proceeding quantified @ ₹75,000/- to be paid to the concerned Customs Officer within four weeks from today. The petitioner shall file an affidavit to that effect within the same period.

S. RAVINDRA BHAT, J

V. KAMESWAR RAO, J

FEBRUARY 17, 2017
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