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

+ **W.P.(C) 7900/2017**

DEVASHISH GARG

..... Petitioner

Through Mr Chetan Sharma, Senior Advocate
with Mr Prateek Chaturvedi and Mr Anubhav
Mehrotra, Advocates.

versus

DIRECTORATE OF REVENUE
INTELLIGENCE & ORS

..... Respondents

Through Mr P.C. Aggarwal, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.09.2017

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent to return the passport bearing No. M-4861822 which was originally seized by the respondent on 23.12.2016.
2. Mr Chetan Sharma, learned Senior Counsel appearing for the petitioner referred to the decision of the Supreme Court in ***Suresh Nanda v. CBI : (2008) 3 SCC 674*** and on the strength of the said decision, contended that the respondent had no authority to impound the petitioner's passport as the said matter is specifically covered under the Passports Act, 1967.
3. The learned counsel appearing for the respondent has handed over a counter affidavit, *inter alia*, stating that investigation in regard to evasion of customs duty is still in progress and the petitioner is required to be present in India for the said purpose.

4. The learned counsel for the respondent further states that there are serious allegations that the petitioner was actively involved in clandestine removal of gold from Special Economic Zone, NOIDA Unit. Although, it is contended that the petitioner has not joined the investigation, despite repeated summons, the said statement is disputed by the petitioner and rightly so; the said allegation does not appear to be correct as the respondent's counter affidavit itself indicates that the petitioner had appeared before the Investigating Officer on 09.02.2017, 13.02.2017 and 21.02.2017. However, it is also mentioned that he did not categorically answer the questions asked by the concerned officer.

5. Be that as it may, in view of the decisions of the Supreme Court in ***Suresh Nanda v. CBI*** (*Supra*), the petitioner's passport cannot be impounded by the respondent.

6. In the circumstances, it is directed that the passport be forwarded to the concerned Regional Passport Officer who, if considers necessary, shall initiate the proceedings for impounding/suspension of the passport in accordance with the Provisions of the Passports Act, 1967.

7. It is clarified that in the event, such proceedings are not commenced within a period of two weeks from today, the passport will be returned to the petitioner forthwith.

8. All contentions of the parties are left open.

9. The petition is disposed of.

VIBHU BAKHRU, J

SEPTEMBER 12, 2017/pkv