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

+ **W.P.(C) 7781/2017**

SHREENATH JI EXPORTS & ANR. Petitioners

Through: Ms. Anjali J. Manish along with
Ms. Priyadarshi Manish, Ms. Nidhi
Saini & Ms. Raj Rajeshwari,
Advocates.

Versus

**THE ADDITIONAL DIRECTOR GENERAL,
DIRECTORATE OF REVENUE
INTELLIGENCE & ORS.**

..... Respondents

Through: Mr. Vinod Diwakar, Senior Standing
Counsel with Mr. Sanjay Pal,
Advocate.

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH**

ORDER

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16.10.2017

1. The present petition by M/s. Shreenath Ji Exports through its partner, Mr. Vijay Goel (Petitioner No. 2), seeks a writ of mandamus to the Respondent Directorate of Revenue Intelligence ('DRI') to defreeze the Current Bank Account No. 2740201000491 of Petitioner No. 1 with Canara Bank, Punjabi Bagh Branch, New Delhi and also to release the passport of Petitioner No. 2.

2. As far as the second prayer is concerned, pursuant to the direction

issued by the Court, the passport was returned to the Petitioner No.2 on 21st September 2017.

3. As regards the justification for continuing with the freezing of the aforementioned bank account of Petitioner No.1, the learned counsel for DRI sought to refer to Section 110 (3) of the Customs Act, 1962 and the decision of the Supreme Court in ***Commissioner of Customs v. Euroasia Global (2009) 6 SCC 58***. Reliance was also placed on a decision of a Single Judge of this Court in ***Lal Mahal Ltd. v. Union of India & Ors. 239 (2017) DLT 251***.

4. As far as the decision in ***Euroasia Global (supra)*** is concerned, the Court notices that said decision does not, in fact, hold that there is any power with the DRI to freeze a bank account under Section 110 (3) of the Act. Further, the matter appears to have travelled to the Supreme Court at an interlocutory stage of the case. The said decision was noted by the learned Single Judge of this Court in ***Lal Mahal Ltd. (supra)*** where again, finding no justification for continuing with the freezing of the bank account, the Court directed the bank account to be de-frozen, subject to the Petitioner in that case furnishing a bank guarantee.

5. Recently, this Court has, in its decision dated 11th October 2017 in W.P.(C) No. 3793/2017 (***Balaji Enterprises v. Union of India***), discussed the issue in some detail with particular reference to Section 110 (3) of the Act and has concluded that there is no such power with the DRI under said provision to freeze bank accounts. In that process,

this Court has followed the decision of the Bombay High Court in *Khaja Mustafa Kamal v. Union of India 2016 (337) ELT 221 (Bom)*. The Court also referred to the decision of this Court in *Laxman Overseas v. Union of India 2010 (252) ELT 512 (Del)* which was followed in *Multitek Engineers v. Union of India, 2013 (287) ELT 44 (Kar)*.

6. It is noticed that Petitioner No.1 has already deposited with the DRI a sum of Rs. 99,75,000/- (Rs. 69,75,000/- on 7th February 2017 and Rs. 30 lakhs on 1st May 2017). It is further noticed that till date no show cause notice has been issued to Petitioner No. 1. The case of the Petitioners is that they have been cooperating with the DRI and appearing on all dates as required by the DRI. The Petitioners further state that they will continue co-operating with the DRI.

7. In that view of the matter, the Court directs that the bank account No. 2740201000491 of Petitioner No.1 with Canara Bank, Punjabi Bagh Branch, New Delhi shall be de-frozen forthwith. It is directed that not later than three days from today, the Respondent-DRI will issue instructions to the Manager, Canara Bank, Punjabi Bagh Branch, where Petitioner No. 1 holds the aforementioned account, to permit Petitioner No. 1 to operate the said account. In any event, if no instructions are issued within the aforementioned time, the Bank Manager shall, on the strength of this order permit the aforementioned account to be operated by Petitioner No.1.

8. The petition is disposed of in the above terms.

9. *Dasti*.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

OCTOBER 16, 2017

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