IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated 03.10.2018

CORAM
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.12123 of 2016
and
W.M.P.No.10490 of 2016

K.H.Mohamed Ismail (alias)
Kose Hajamohideen Mohamed Ismail ..Petitioner

Vs.

1.The Commissioner of Customs-Airport,
Customs House,
Meenambakkam,
Chennai 600 027.

2.The Joint/Additional Commissioner,
of Customs-Airport,
Customs House,
Meenambakkam,
Chennai 600 027.

3.The Assistant Commissioner (AIU),
Office of the Principal Commissioner of Customs,
Chennai-1 Commissionerate, Air Intelligence Unit,
Anna International Terminal,
Chennai Airport,
Chennai 600 027. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order of the third respondent dated 12.02.2016 in File No.O.S.No.1366/2015-AIU and to quash the same and consequently direct the respondents to provisionally release the goods viz. 466.56 gms gold seized by the respondent authorities vide Mahazar dated 23.12.2015, pending adjudication in O.S.No.1366 of 2015, on the file of the respondents.

For Petitioner : Mr.R.Gopinathan
For M/s.McGan Law Firm

For Respondents : Mr.V.Sundareswaran
Senior Panel Counsel

ORDER

This writ petition is filed challenging the order of the third respondent dated 12.02.2016 and consequently, for a direction to the respondents to provisionally release the goods viz.,466.56 gms gold seized by the respondent authorities vide Mahazar dated 23.12.2015, pending adjudication in O.S.No.1366 of 2015, on the file of the respondents.

2. It is seen that the order impugned in this writ petition is a communication informing the petitioner that it is not possible to release the subject matter goods provisionally as the seized goods appear liable to confiscation. Today when the matter is taken up for further hearing, it is represented by the learned counsel for the petitioner that subsequent to filing of another writ petition in W.P.No.1041 of 2016 dated 20.12.2016, challenging the communication dated 10.11.2016 informing the petitioner that the subject matter goods would be disposed of unless a stay is obtained by the petitioner against the order in original, in appeal, this Court ordered release of the goods and consequently, the goods were also released. Therefore, he submitted that nothing survives in this writ petition to be adjudicated upon further.

3. On the other hand, the learned counsel for the respondents submitted that though the goods were released in pursuance of the order passed in W.P.No.41041 of 2016, the petitioner has not complied with certain conditions imposed in the said order.

4. Needless to state that the respondents are at liberty to work out against the petitioner in accordance with law, if some of the conditions imposed in the said order has not been complied with while releasing the goods. However, as the prayer sought for in this writ petition is very limited, only for the release of goods and when the fact remains that the goods are already released, I do not think that any further order is necessary in this writ petition, as the same may be closed without expressing any view on the merits and contentions raised by the parties.

5. Accordingly, this writ petition is closed as infructuous in view of the subsequent order passed in W.P.No.41041 of 2016 dated 20.12.2016, however by granting liberty to the respondents to work out against the petitioner in the manner known to law, if they have still any claim against the petitioner in not complying with the conditions imposed in the said order. It is made clear that the disposal of the writ petition shall not be construed as if this Court has expressed any view on the merits of the claim made by the petitioner for the release of goods or any order passed against them by the Revenue, which is not the

subject matter in the present writ petition. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Customs-Airport,
Customs House,
Meenambakkam,
Chennai 600 027.

2.The Joint/Additional Commissioner,
of Customs-Airport,
Customs House,
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Chennai 600 027.

3.The Assistant Commissioner (AIU),
Office of the Principal Commissioner of Customs,
Chennai-1 Commissionerate, Air Intelligence Unit,
Anna International Terminal,
Chennai Airport,
Chennai 600 027.

+1cc to M/s.McGan Law Firm, Advocate, S.R.No.68460
+1cc to Mr.V.Sundaswaran, Advocate, S.R.No.68392

W.P.No.12123 of 2016

RSK(CO)

rrs 23/10/2018