

In the High Court of Judicature at Madras

Dated : 25.4.2018

Coram :

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No.10457 of 2018

M/s. Annam Steels Pvt. Ltd.,
rep. by Director C. Vijay Kumar ... Petitioner

Vs

The Assistant Commissioner of
Customs (Bonds), office of the
Commissioner of Customs,
Chennai V, 60, Rajaji Salai,
Custom House, Chennai-1. ... Respondent

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Mandamus directing the
respondent to pass orders on the petitioner's representation
dated 05.10.2017, followed by subsequent communication dated
25.10.2017.

For Petitioner : Mr. R. N. Amarnah
For Respondent : Mr. Rabu Manohar, SSC

ORDER

Mr. Rabu Manohar, learned Senior Standing Counsel accepts
notice for the respondent. Heard both. By consent, the writ
petition itself is taken up for final disposal.

2. The subject property was originally owned by one M/s. DDS
Steel Rolling Mills Private Limited, which had availed loan from
the Indian Overseas Bank. The property owned by the said company
was mortgaged in favour of the bank in the year 2008. The bank,
being a secured creditor, had a first charge over the subject
property.

3. According to the petitioner, the property in question was
free from any other attachment or mortgage except the mortgage
in favour of the Indian Overseas Bank. On account of the default
committed by the said company in repayment of the loan, action
was initiated by the secured creditor under the provisions of
the Securitization and Reconstruction of Financial Assets and
Enforcement of Security Interest Act, 2002 and ultimately, the
subject property was brought to auction sale. The petitioner

participated in the public auction and was declared as a successful bidder and a sale certificate was issued on 23.1.2012. Subsequently, a corrigendum was issued since there was no mentioning of the pathway. The petitioner approached the Sub-Registrar, Redhills for registration of the sale certificate along with the corrigendum. However, the petitioner was informed that there was an attachment of the subject property by the Customs Department while attaching the properties owned by one M/s.SDS Steels Private Limited and one M/s.Jai Bhawani Steel Enterprises, having factory in the adjoining lands for non payment of customs duty.

4. The case of the petitioner is that they purchased the subject property in an auction conducted by the secured creditor pursuant to an action initiated under the said Act and that the subject property, which was brought for auction, was owned by the defaulter namely M/s.DDS Steel Rolling Mills Private Limited and not the said M/s.SDS Steels Private Limited and the said M/s.Jai Bhawani Steel Enterprises. Therefore, the petitioner requested the Customs Authorities to lift the attachment and in this regard, a representation was sent on 16.9.2017, followed by reminders dated 05.10.2017 and 25.10.2017. Having not been favoured with any response, the petitioner is before this Court for appropriate directions to the respondent. The fact that the petitioner has made a representation for lifting the attachment is not in dispute, as the Department, by letter dated 16.10.2017, requested for details from the petitioner, which the petitioner has furnished.

5. In the light of the above, the writ petition is disposed of with a direction to the respondent to consider the petitioner's representations dated 05.10.2017 and 25.10.2017 as well as the documents furnished along with the representation dated 25.10.2017, afford an opportunity of personal hearing to the authorized representative of the petitioner and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

RS

To

The Assistant Commissioner of Customs (Bonds), office of the
Commissioner of Customs, Chennai V, 60, Rajaji Salai, Custom
House, Chennai-1.

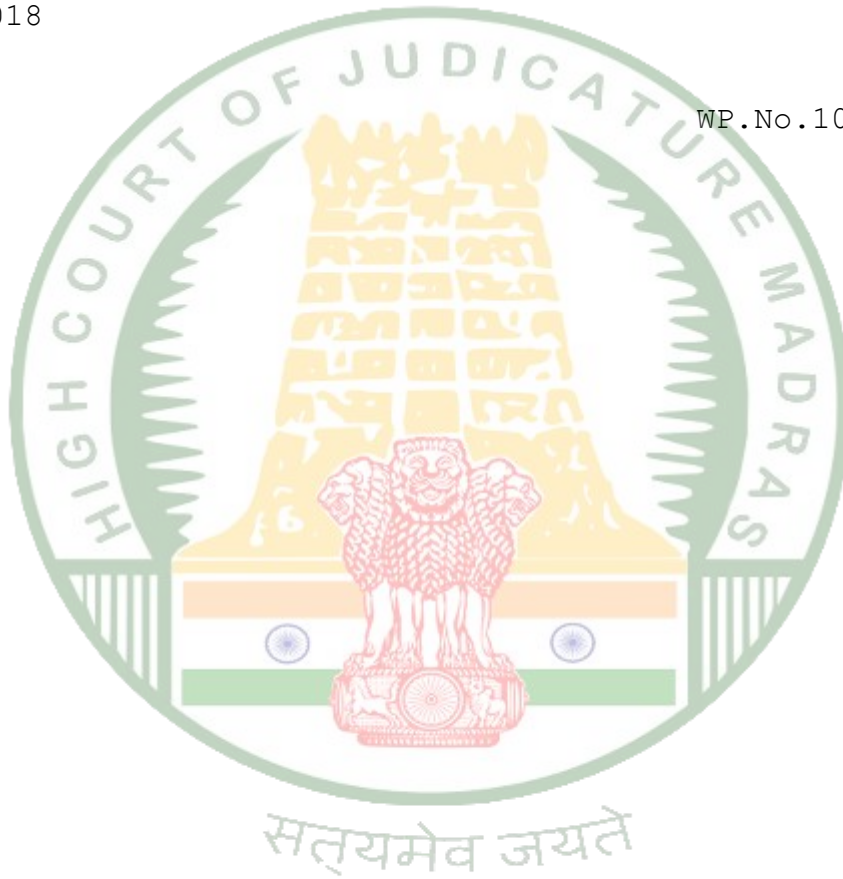
+1cc to Mr.R.N.Amarnath, Advocate Sr.No.31174

+1cc to Mr.B.Rabu Manohar, Advocate SR.No.30606

GMR (CO)

sm:11.5.2018

WP.No.10457 of 2018



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