

In the High Court of Judicature at Madras

Dated : 18.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.1101 of 2018 & WMP.Nos.1361 to 1363 of 2018

N.Hyder Ali

...Petitioner

Vs

1.The Commissioner of Customs
(Appeals-I), Custom House,
No.60, Rajaji Salai, Chennai-1.

2.The Additional Commissioner of
Customs (Airport), O/o the Principal
Commissioner of Customs, Anna
International Airport, Meenambakkam,
Chennai-27.

3.The Joint Secretary (RP), Department
of Revenue, No.14, Hudco Vishala
Building, B Wing, 6th Floor, Bhikaji
Came Place, New Delhi-110066.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in appeal C.Cus.No.266/2016 dated 28.6.2016 of the first respondent, quash the same and further direct the second respondent to release the seized 325 Nos. of Malaysian Ringgits of demonization 100 totally valued at Rs.5,03,100/- to the petitioner.

For Petitioner : Mr.G.Vijayabalan

For Respondents : Mr.B.Rabu Manohar, SPC

ORDER

Mr.Rabu Manohar, learned Senior Panel Counsel accepts notice for the respondents. Heard both.

2. The petitioner is before this Court challenging an order in appeal dated 28.6.2016, by which, the first respondent affirmed the order passed by the second respondent dated 26.4.2016.

3. The petitioner preferred a revision before the third respondent and would state that the officer, who is manning the

office of the third respondent, is equivalent in rank to the Commissioner of Customs and that therefore, he cannot decide the matter and hence, seeks to entertain the writ petition to test the correctness of the order passed by the first respondent.

4. It may be true that there was a period when the office of the Joint Secretary, Department of Revenue, was manned by an officer equivalent in cadre to that of Commissioner of Customs. However, the Punjab and Haryana High Court, in the case of NVR Forgings Vs. Union of India [reported in (2016) 335 ELT 679], interfered with such orders and held that they were without jurisdiction. The matter was taken up to the Hon'ble Supreme Court and in the meantime, it appears that an officer, in the cadre of the Principal Commissioner (RA) and Ex-Officio Additional Secretary to Government of India has been appointed. In so far as the cases arising from Tamil Nadu, the Revisional Authority is at Mumbai.

5. The learned counsel for the petitioner submits that the petitioner is unable to lay his hands on the Notification of the Central Board of Excise and Customs appointing an officer in the rank of Principal Commissioner as the Revisional Authority under the Customs Act and Notification No.27/17 CE (NT) dated 23.11.2017 pertains only to appeals arising under the Central Excise Act.

6. Mr. Rabu Manohar, learned Senior Panel Counsel appearing for the respondents submits that the Central Government, by now, would have issued the Notification under the Customs Act as well and that if it has not been issued, it will be issued shortly and the petitioner can pursue his revision before the third respondent.

7. Hence, the writ petition challenging the order passed by the first respondent is held to be not maintainable.

8. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected WMPs are also dismissed.

9. Since it is stated that the petitioner has already filed a revision petition before the third respondent on 27.10.2016, the petitioner is at liberty to prosecute the same in accordance with law.

Sd/-

ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1.The Commissioner of Customs (Appeals-I), Custom House, No.60,
Rajaji
Salai, Chennai-1.

2.The Additional Commissioner of Customs (Airport), O/o the
Principal
Commissioner of Customs, Anna International Airport,
Meenambakkam, Chennai-27.

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Vishala Building, B Wing, 6th Floor, Bhikaji Came Place,
New Delhi-110066.

+1 CC to Mr.B.Rabu Manohar, SPC Advocate SR.NO.3785

+1 CC to Mr.Hari Radhakrishnan Advocate SR.NO.4126

WP.No.1101 of 2018 &
WMP.Nos.1361 to 1363
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VG-II(CO)
VC (07/02/2018)



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