

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32753 & 32754 of 2017

and

W.M.P.Nos.36091 to 36094 of 2017

Nathaniel Karuna Hudson

..Petitioner in W.P.No.32753 of 2017

R.Rajagopal Tondaiman

..Petitioner in W.P.No.32754 of 2017

Vs.

1. Government of India,  
Ministry of Finance,  
(Department of Revenue)  
Rep.by its Secretary,  
North Block,  
New Delhi - 110 001.
2. The Commissioner of Customs, (Air Cargo)  
Air Cargo Complex,  
Meenambakkam,  
Chennai - 600 027.
3. The Deputy Commissioner of Customs,  
(Air Cargo)  
Air Cargo Complex,  
Meenambakkam,  
Chennai - 600 027.
4. The Assistant Commissioner of Customs,  
(Air Cargo)  
Group - 6, Air Cargo Complex,  
Meenambakkam,  
Chennai - 600 027.
5. Mr.K.Thirunghanam,  
Assistant Commissioner of Customs,  
(Air Cargo)  
Group - 6, Air Cargo Complex,  
Meenambakkam,  
Chennai - 600 027.

..Respondents in Both W.Ps.

Prayer in W.P.No.32753 of 2017:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified

Mandamus, calling for the records of the 4<sup>th</sup> respondent in Ref.BE No/Dt./cc/Typ:3620302/14 102017/NH OOC No./Dt/officer: 2025533354/21-10-2017/10014997 dated 21.10.2017 in respect of levying Customs duty for a sum of Rs. 1,11,975/- (Rupees One Lakh Eleven Thousand and Nine Hundred and Seventy Only) towards the import of 12 Bore Shot Gun Cartridges for sports purpose and quash the same and direct the respondents to refund the amount of Rs.1,11,975/- along with interest within a time limit stipulated by this Honourable Court.

Prayer in W.P.No.32754 of 2017:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 4<sup>th</sup> respondent in Ref.BE No/Dt./cc/Type:3627216/16102017/N/HOOC.No.Dt/officer:2025599261/ 21-10-2017/10014987 dated 21.10.2017 in respect of levying Customs duty for a sum of Rs.1,02,718/- (Rupees One Lakh Two Thousand Seven Hundred and Eighteen Only) towards the import of 12 Bore Shot Gun Cartridges for sports purposes and quash the same and direct the respondents to refund the amount of Rs.1,02,718/- along with interest within a time limit stipulated by this Honourable Court.

For Petitioners in both W.Ps : M/s.V.Manohar  
For Respondents in both W.Ps : Mr.V.Sundareswaran  
Senior Panel Counsel

C O M M O N O R D E R

Heard Mr.V.Manohar, learned counsel for the petitioners and Mr.V.Sundareswaran, learned senior panel counsel appearing on behalf of respondents 1 to 4 as well as for the 5<sup>th</sup> respondent, who has been impleaded in his personal capacity. The petitioners who are two in number have participated in a shooting competition, both at national and international level and the writ petitioner in W.P.No.32753 of 2017, Mr.E.Nathaniel Karuna Hudson, is a RENOWNED SHOOTER TRAP - 2017,2016,2015 and RENOWNED SHOOTER DOUBLE TRAP - 2016 - 2017 and selected for the Tamil Nadu Trap team to represent Tamil Nadu at National level. The medals won by the petitioner are as follows:

| Sl.No | Year | Competition                                                                        | Medals |
|-------|------|------------------------------------------------------------------------------------|--------|
| 1.    | 2016 | 42 <sup>nd</sup> State Shooting Championship - Double Trap Men (T)                 | Bronze |
| 2.    | 2016 | 42 <sup>nd</sup> State Shooting Championship - Skeet Men (T)                       | Gold   |
| 3.    | 2016 | 8 <sup>th</sup> South Zone Shot Gun Shooting Championship - Double Trap Men (ISSF) | Gold   |

| Sl.No | Year | Competition                                                                        | Medals |
|-------|------|------------------------------------------------------------------------------------|--------|
| 4.    | 2015 | 41 <sup>st</sup> State Shooting Championship - Trap Men (T)                        | Silver |
| 5.    | 2015 | 7 <sup>th</sup> South Zone Shot Gun Shooting Championship - Double Trap Men (ISSF) | Gold   |
| 6.    | 2015 | 7 <sup>th</sup> South Zone Shot Gun Shooting Championship - Double Trap Men (ISSF) | Gold   |
| 7.    | 2017 | 7 <sup>th</sup> South Zone Shot Gun Shooting Championship - Trap Men (NR)          | Bronze |
| 8.    | 2015 | Thailand Open - Team India                                                         | Bronze |

2. According to the petitioner, the Government of India in order to encourage the sports of shooting had issued General Exemption No.127 under notification No.146/94-Cus dated 13.07.1994 as amended wherein Customs Duty Exemption has been granted to specified sports goods imported by National Sports Federation or by a sports person of outstanding eminence for training. The notification stood amended from time to time and by notification dated No.101/2010, a proviso has been added which is to the following effect:

Provided that in respect of goods listed under item XV 'SHOOTING' specified in column (2) of the Table, the said goods are imported into India by a renowned shooter for training purpose and such importer produces a certificate to the Assistant Commissioner of Customs as the case may be, from the National Rifle Association of India that the importer is a renowned shooter.

EXPLANATION:- For the purpose of this notification, "renowned shooter" means a person who has participated in a National Shooting Championship in an Open Men's Event or Open Women's Event or Open Civilian's Event whether through Qualifying Tournament or Wild Card Entry conducted in accordance with the rules of the International Shooting Union, and has attained the Minimum Qualifying Score prescribed by the National Rifle Association."

3. In terms of the above proviso, the importer, at the time of import, should produce before the 3<sup>rd</sup> or 4<sup>th</sup> respondent, as the case may be, a certificate issued by the National Rifle Association that the importer is a "Renowned Shooter". As per the explanation for the purpose of this notification, "renowned shooter" means a person who has participated in a National

Shooting Championship in an Open Men's Event or Open Women's Event or Open Civilian's Event, whether through Qualifying Tournament or Wild Card Entry conducted in accordance with the rules of the International Shooting Union, and had attained the Minimum Qualifying Score prescribed by the National Rifle Association.

4. In order to facilitate the import of such Arms, the Ministry of Commerce & Industry has further laid a condition that instead of obtaining certification from the Sports Authority of India, certification by National Rifle Association of India would suffice. The petitioner Mr.E.Nathaniel Karuna Hudson has received certificate dated 04.01.2017 from the National Rifle Association of India as a renowned shooter and also received import permit dated 04.07.2017 issued by the National Rifle Association of India. The petitioner placed order with Philippos Constantinides Trading Co ltd, Cyprus for import of Cartridges of 12 Bore Shotgun under invoice dated 19.09.2017 and the goods landed in the Chennai Airport on 14.10.2017 and bill of entry was filed by the petitioner through his clearing agent. The petitioner's grievance is that in spite of having produced the necessary documents to show that he is a renowned shooter and entitled for exemption from Customs Duty as per the Government of India notifications, the 4<sup>th</sup> respondent detained the consignment and for six days, the consignment was withheld under one pretext or the other. In the mean time, the petitioner incurred demurrage charges of Rs.29,065/-, as a goods were classified as dangerous goods and to be kept in safe custody. The petitioner states that he has been made to undergo huge mental agony and without any other remedy, he had to pay the duty for the clearance of the goods.

5. The petitioner in W.P.No.32754 of 2017 is Mr.R.Rajagopal Tondaiman, Son of His Highness Rajah Rajagopala Tondaiman, who has been participating in shooting competition from his very young age and won many competitions in the State of Tamil Nadu. He is Vice President of the Tamil Nadu Shooting Association and the President of Royal Pudukottai Sports Club and "Renowned Shooter" in Skeet(Flying Targets) shooting for the past 20 years. The petitioner had placed orders with Procopis G.Gavrielides, Cyprus, for import of 15000 Cartridges of 12 Bore Shotgun under invoice dated 14.10.2017 and the goods landed in the Chennai Airport on 16.10.2017.

6. The Bill of Entry filed by the petitioner was handled by their clearing agent and he was also put to same difficulty as that of Mr.E.Nathaniel Karuna Hudson. The petitioner Thiru.Raja Gopala Tondaiman would further state that he had earlier imported the same through Bangalore Airport for the years from 2014-16 and has cleared it without payment of Customs

duty and the present import is also under the same NRAI Certification. Thus, the petitioner would state that the 5<sup>th</sup> respondent has adopted double standards and has put the petitioner to irreparable mental agony.

7. Mr.V.Sundareswaran, learned standing counsel for respondents 1 to 4 as well as the 5<sup>th</sup> respondent impleaded in his personal capacity sought to justify the action of the 4<sup>th</sup> respondent by referring to the notification dated 01.10.2010 by which a proviso was added to serial number 2, in column (3), after condition (b) in the notification dated 13.07.1994 and it is stated that the petitioner is required to produce the certificate from an officer not below the rank of the Deputy Secretary, in the Department of Youth Affairs and Sports, Ministry of Human Resource Development, Government of India recommending the grant of exemption and since the petitioner had not produced such a certificate, a grant of exemption would not arise. I am unable to persuade myself in accepting the said interpretation. The purpose of adding the proviso to the condition b in column 3, SL.No.2 of the general exemption notification is clear. The purport and import of such inclusion by adding a proviso is to facilitate the process of acquiring the imported goods duty free. If the interpretation given by the 4<sup>th</sup> respondent has to be accepted, no eminent sportsman in this particular field would ever be able to import any of the ammunition of arms for the training purpose and he will be languishing in the corridors of Department of Youth affairs for years together for obtaining appropriate certification. This is precisely the reason for introducing the explanation to the said provision. The respondent cannot deny the fact that both the petitioners are Renowned Shooters and National Rifle Association certified so and considering the fact that one of them has done prior imports through the Bangalore Airport, the 4<sup>th</sup> respondent was not justified in denying the relief of exemption to the petitioner.

8. In the result, the writ petitions stand allowed and the impugned orders are set aside. The respondents are directed to refund the customs duty collected from the petitioners together with admissible interest within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-  
Assistant Registrar(CS )

//True Copy//

Sub Assistant Registrar

sk/kak  
To

1. The Secretary, Government of India,  
Ministry of Finance,  
(Department of Revenue)  
North Block,  
New Delhi - 110 001.
  2. The Commissioner of Customs, (Air Cargo)  
Air Cargo Complex,  
Meenambakkam,  
Chennai - 600 027.
  3. The Deputy Commissioner of Customs, (Air Cargo)  
Air Cargo Complex,  
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  5. Mr.K.Thirunghanam,  
Assistant Commissioner of Customs, (Air Cargo)  
Group - 6, Air Cargo Complex,  
Meenambakkam,  
Chennai - 600 027.
- + 2 ccs to Mr.V. Manohar, Advocate Sr.1568  
+ 1 cc to Mr. V. Sundareswaran, Advocate Sr.2158

W.P.Nos.32753 & 32754 of 2017

SS(CO)  
EU(15/02/2018)

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