IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.03.2018
CORAM:
THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A.No.596 of 2018
against MP.2/2012 in
WP.No.29173/2012

The Commissioner of Customs (Imports),
Air Cargo Complex,
Meenambakkam,
Chennai - 600 027 .. Appellant/3red Respondent

versus

1. K.Ramanlal
Managing Director,
Nakoda Unique Gold Private Limited,
No.59, NSC Bose Road,
Chennai - 600 079.

2. Union of India,
Rep. by its Revenue Secretary,
Department of Revenue,
Ministry of Finance, North Block,
New Delhi - 1.

3. The Additional Director General,
Directorate General of Revenue Intelligence,
No.25, Gopalakrishnan Road,
T.Nagar,
Chennai - 600 017.

4. The Senior Intelligence Officer,
O/o. The Directorate of Revenue Intelligence,
Chennai Zonal Unit,
No.25, Gopalakrishnan Road,
T.Nagar, Chennai - 600 017. .. Respondents

Writ Appeal filed against the order dated 31.10.2012 in M.P.No.2 of 2012 in W.P.No.29173 of 2012.

MP.2/2012 in WP.No.29173/2012:This petition praying to pass an order of interim direction directing the respondent to provisionally release the unbranded gold jewellery weighing about 12742.500 gms valued at Rs.3,63,16,125/- being the goods imported through bill of Entry No.8086795 dated 1st October, 2012 seized vide a Mahazar dated 15th October 2012 by the 4th Respondent to the petitioner, pending WP.No.29173 of 2012.

WP.No.29173 of 2012:Writ of Certiorari to call for the records of the seizure Mahazar dated 15th October 2012 of the 4th respondent and quash the same as the goods seized by the Mahazar dated 15th October 2012 were duly imported by due declaration and cleared through the Bill of Entry No.8086795 dated 1st October 2012 by the customs department and thus render justice.

For Appellants : M/s.T.Chandrasekaran
For Respondent 1 to 4 :Mr.A.P.Srinivas

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

Writ Appeal is against an interim order in M.P.No.2 of 2012 in W.P.No.29173 of 2012, dated 31.10.2012, by which, the writ Court, directed respondents 2 and 4 therein, to release the gold jewellery in question, seized under the mahazar, dated 15.10.2012 on payment of 30% of the differential duty, in cash, and for the balance 70% of the differential duty, directed the writ petitioner to furnish Bank Guarantee to the satisfaction of the respondents therein. Writ Court further directed that the Gold Jewellery in question shall be released by the respondents 2 and 4 therein, on the writ petitioner complying with the said condition. Writ Court has made it clear that the writ petitioner shall co-operate fully in the adjudication process to be initiated by the respondents 2 and 4 therein.

2. On this day, when the writ appeal filed against the abovesaid interim order, came up for admission, Mr.A.P.Srinivas, learned counsel appearing for the Commissioner of Customs (Import), Chennai, appellant herein submitted that W.P.No.29173 of 2012, itself has been disposed of on 02.08.2017.

3. It is well settled that an interim order passed, merges with the disposal of the main case. On the principle of law that interim order merges with final orders, we deem it fit to consider few decisions.

(i) In South Eastern Coalfields Ltd v. State of MP and Others reported in (2003) 8 SCC 648, the Hon'ble Supreme Court held as follows:

> "The scope of the provision is wide enough so as to include therein almost all the kinds of variation, reversal, setting aside or modification of a decree or order. The interim order passed by the court merges into a final decision. The validity of an interim order, passed in favour of a party, stands reversed in the event of a final decision going against the party successful at the interim stage.

(ii) In Prem Chandra Agarwal and Another v. Uttar Pradesh Financial Corporation and Others reported in (2009) 11 SCC 479, the Hon'ble Supreme Court held that once a final order is passed, all the earlier interim orders merge into the final order, the interim orders cease to exist.

(iii) In State of West Bengal and Others Vs Banibrata Ghosh and Others reported in (2009) 3 SCC 250, the Hon'ble Apex Court held that the Interim Order does not decide the fate of the parties to the litigation finally, it is always subject to and merges with the final order passed in the proceedings.

4. In the light of the above decisions, nothing survives in the writ appeal for adjudication. Hence, instant writ appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ars
To

1. The Revenue Secretary,
Union of India,
Department of Revenue,
Ministry of Finance, North Block,
New Delhi - 1.

2. The Additional Director General,
Directorate General of Revenue Intelligence,
No.25, Gopalakrishnan Road,
T.Nagar,
Chennai - 600 017.

3. The Senior Intelligence Officer,
O/o. The Directorate of Revenue Intelligence,
Chennai Zonal Unit,
No.25, Gopalakrishnan Road,
T.Nagar, Chennai - 600 017.

+1cc to Mr.A.P.Srinivas, Advocate Sr.No.20626

sm:6.4.2018

W.A.No.596 of 2018