



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.01.2018

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.1890 of 2018

and

WMP No.2376 of 2018

A.G.Venkataraman

...Petitioner

vs

1.The Joint Commissioner of Customs (Gr.7),
5th Floor, Room No.507,
Main Building, Custom House,
No.60, Rajaji Salai,
Chennai 600 001.

2.The Additional Commissioner of Customs (SIIB),
Commissioner-III,
Customs House,
No.60, Rajaji Salai,
Chennai 600 001.

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records pertaining to the Show Cause Notice in SIIB/38/2017 in F.No.S.Misc/12/2016-SIIB dated 31.10.2017, issued by the Additional Commissioner of Customs (SIIB), Chennai-III, Customs House, Chennai 600 001-the second respondent herein and quash the same as illegal, arbitrary, malafide and ultravires the Constitution of India as against the petitioner.

For petitioner : Mr.T.Ramesh

For Respondent : Mrs.Hema Muralikrishnan
Central Government Standing Counsel

O R D E R

This writ petition is filed against the show cause notice dated 31.10.2017, issued under Section 28 and Section 124 of the Customs Act, 1962, calling upon the petitioner and two others to show cause as to why the confiscation of the subject matter goods shall not be made, etc., as referred to in the show cause



notice.

2. Mr. T. Ramesh, learned counsel for the petitioner vehemently contended that there is a jurisdictional error in issuing the show cause notice against the petitioner by contending that the petitioner was not at all involved in the alleged offence and therefore, the notice was issued on a wrong person and consequently, the same is without jurisdiction. He also submitted that on the face of the show cause notice, it does not disclose any role of the petitioner in respect of the allegation, which warranted in issuing the show cause notice. Therefore, he sought to contend that this Court can interfere with the said show cause notice.

3. I do not find any justification on the part of the writ petitioner to contend that the second respondent, who issued the show cause notice, is not having jurisdiction to issue the same, only on the claim that it was issued on a wrong person. Needless to say, that the question whether a notice issued was on right person or wrong person, is a factual issue of the matter, which has to be necessarily considered and decided by the authority, who issued the said notice. Therefore, it does not mean that the Authority, who issued the notice is lacking jurisdiction. The issue with regard to the jurisdiction of an authority to issue a show cause notice over a subject matter has to be viewed, considered and decided from the point of view of the empowerment of such authority under the relevant statute. The petitioner is not disputing the power vested on the second respondent under the relevant statute. Therefore, he is not justified in his contention on the jurisdictional issue, since all those contentions raised are fully factual aspect of the matter, that too from the point of view of the petitioner, which in my considered view, cannot decide the jurisdiction of the second respondent.

4. Learned counsel for the petitioner also made further submission that a person, who is alleged to be the master mind in committing the offence, has not been issued with any show cause notice and therefore, the second respondent is not justified in issuing the show cause notice to the petitioner, which is impugned in this writ petition. Again this contention is another factual aspect of the matter, which has to be raised and to be considered and decided by the second respondent.

5. Accordingly, this Court is of the view that there is no jurisdictional error, warranting interference with the impugned show cause notice by entertaining this writ petition. Therefore, the writ petition fails and the same is dismissed, without expressing any view on the merits of the contention raised by the petitioner, as it is for the second respondent to consider and decide if the petitioner gives his explanation to



the show cause notice. No costs. The connected miscellaneous petition is closed.

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-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

vri

To

1.The Joint Commissioner of Customs (Gr.7),
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Chennai 600 001.

2.The Additional Commissioner of Customs (SIIB),
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+1 cc to MR.HEMA MURALIKRISHNAN Advocate SR.NO. 7595

W.P.No.1890 of 2018

kk[co]
RD 17/02/2018