

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.25180 of 2013

and

M.P.No. 1 of 2013

John Karunakaran
Son of Vyakularaj

...Petitioner

Vs.

1.The Commissioner of Customs
Airport, Anna International Terminal
Chennai - 600 027.

2.The Customs, Excise & Service Tax
Appellate Tribunal (CESTAT)
Sastri Bhavan Annexe
No.26, Haddows Road
Chennai - 600 006.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter dated 23.04.2013 passed in F.No.O.S.No.587/2008-Airport Admin on the file of the first respondent and consequently directing the first respondent to release the watches under seizure after collecting the necessary fine and personal penalty as ordered by the second respondent in Final Order No.1058/09 in Appeal No.C/105/09.

For Petitioner : Mr. B.Sathish Sundar
For Mr.M.K.Alifudeen

For Respondents : Mr.K.S.Ramasamy
Junior Panel Counsel

O R D E R

Heard Mr. B.Sathish Sundar, learned counsel for Mr.M.K.Alifudeen, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Panel Counsel appearing on behalf of the respondents.

2.The petitioner is aggrieved by a communication sent by the Superintendent of Customs, Airport-Administration, Airport, dated 23.04.2013 stating that the request for redemption of the confiscated goods for re-export on payment of fine and penalty can be complied with, only if the petitioner approaches the CESTAT for extending the time limit or this Court for modifying the order. The problem has arisen, because, the CESTAT while passing the final order dated 24.08.2009 in the petitioner's appeal reduced the fine in lieu of confiscation to Rs.4,00,000/- and the option to redeem the watches is required to be exercised by the petitioner within a period of 30 days from the date of order and reduced the penalty to Rs.1,50,000/-.

3.The petitioner admittedly could not seek for redemption within the said time, because, it appears that he has been prosecuted in the criminal proceedings and he was detained under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA). After the order of detention was quashed, the petitioner was released and the petitioner made a request, which has now been denied for the reasons mentioned in the impugned communication.

4.Considering the facts of the case and since the order passed by the CESTAT dated 24.08.2009 has attained finality as the department has not challenged the order, the petitioner is permitted to redeem the confiscated goods for re-export on payment of fine and penalty as mentioned in the final order no.1058/2009 dated 24.08.2009, within a period of 30 days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

may a

To

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+1cc to Mr.K.S.Ramasamy, Advocate, S.R.No.7847

W. P.No.25180 of 2013

RRK(23/02/2018)



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