IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.19791 of 2013
&
M.P.No.1 of 2013

Mr.L.Gopikrishnan ... Petitioner

Vs.

1.The Commissioner of Customs (Airport & Aircargo)
Integrated Air Export Complex
Chennai- 600 027

2.The Additional Commissioner of Customs (Airport)
Meenambakkam, Chennai- 600 027

3.The Commissioner of Customs (Appeals)
Custom House, No.60 Rajaji Salai
Chennai – 600 001

4.The Joint Secretary to the Government of India
(Revision Application)
Ministry of Finance (Department of Revenue)
14, HUDCO Vishala Building, B-Wing
6th Floor, Bhikaji Cama Place
New Delhi- 110 066 ... Respondents

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent the Joint Secretary to the Government of India (Revision Application), Ministry of Finance (Department of Revenue), New Delhi in Order No.28/13-Cus dated 18.01.2013, in Revision Application F.No.373/44/B/12-RA-Cus, confirming the order of the 3rd respondent, the Commissioner of Customs (Appeals), Custom House, Chennai in Order-in-Appeal C.CUS.No.164/2012 dated 20.03.2012 and order of the Additional Commissioner of Customs (Airport), Meenambakkam, Chennai, the 2nd respondent herein in O.S.No.553/2011-Air dated 22.11.2011 and quash the same and to pass an order of direction, directing the 1st and 2nd respondents herein to release 141 grams of Assorted Gold Jewellery viz., 12 Nos. of Gold Ear Ring Sets, 3 Nos. of Gold Chains and 2 Nos. of Gold Bracelet valued at Rs.3,83,661/- covered by O.S.No.553/2011-Air dated 22.11.2011, on payment of

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duty as applicable for the passenger stayed abroad and passport No.J3106060.

For Petitioner : Mr.A.K.Jayaraj
For Respondents : Mr.S.Rajasekar
Senior Panel Counsel

O R D E R

Heard Mr.A.K.Jayaraj, learned counsel for the petitioner and Mr.S.Rajasekar, learned senior panel counsel appearing on behalf of the respondent.

2. The petitioner has filed this petition challenging the order passed by the fourth respondent dated 18.01.2013 in a revision petition filed by the petitioner under Section 129DD of the Customs Act, 1962, challenging the order passed by the Commissioner of Customs (Appeals) in Appeal No.164 of 2012 dated 20.03.2012 confirming the order-in-original dated 22.11.2011 absolutely confiscating the gold jewellery weighing 141 gms under Section 111(d)(l) and (m) of the Customs Act, 1962 r/w.Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992, apart from imposing penalty under Section 112 of the Customs Act.

3. The Original Authority, appellate Authority and revisional Authority have considered and reconsidered the factual position and have held that the petitioner is not the owner of the gold jewellery and is not an eligible importer and he did not declare the gold jewellery before the customs Authority and he acted as a carrier for a monetary gain of Rs.2,000/-. The three Authorities having gone into the factual position and held that the petitioner was not the owner of the gold jewellary as he is not the eligible importer, this Court, exercising jurisdiction under Article 226 of the Constitution of India, cannot examine the correctness of the impugned order as the fourth Appellate Authority over respondents 1 to 3. Thus, no case has been made out by the petitioner to dislodge the finding recorded concurrently by the authorities.

This writ petition, being devoid of merits, is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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gpa

To

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6th Floor, Bhikaji Cama Place
New Delhi- 110 066

+1cc to Mr.A.K.Jayaraj, Advocate, S.R.No.36801

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SSV(CO)
CS/26/06/18

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