

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.34231 of 2018

Shri Varalakshmi Company
Represented by its Managing Partner V.Sundaresan
(S/o Varadharaj, aged about 57 years)
No.3, Komarapalayam (P.O),
Mallur, Rasipuram Taluk,
Namakkal - 636 203.

...Petitioner

vs.

1. The Senior Intelligence Officer,
D.R.I. Jamnagar,
Directorate of Revenue Intelligence,
Regional Unit, Plot No.45,
Jampuri Estate, Opp. Deep Bhawan,
Bedi Bunder Road,
Jamnagar - 361 008.

2. The Joint Commissioner of Customs,
Customs House, Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the impugned proceedings of the first respondent bearing Book No.C.A.134/Serial No.6656 dated 26.11.2018 and quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondents: Mr.V.Sundareswaran
Standing Counsel for R1
Mr.Umesh Rao
Standing Counsel for R2

O R D E R

Mr.V.Sundareswaran, learned standing counsel takes notice for R1. Mr.Umesh Rao, learned standing counsel takes notice for R2. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the proceedings dated 26.11.2018 issued by the first respondent, which is nothing but a summon under Section 108 of the Customs Act, 1962, calling upon the petitioner to appear, give evidence and produce the documents in respect of import of machine under Bill of Entry No.4237280 dated 02.12.2017.

3. Though the learned counsel appearing for the petitioner sought to contend that in respect of similar machinery, an order has already been passed by the Joint Commissioner of Customs, Chennai Commissionerate dated 28.06.2018, holding the classification was rightly made and therefore, the first respondent is not entitled to issue summon now, in respect of another similar machinery imported, this Court is not convinced to interfere with the proceedings at the stage of issuance of summons, simply on the reason that all the contentions raised by the petitioner before this Court can be raised before the first respondent as an answer to the summon, more particularly, when the jurisdiction of the first respondent is not questioned before this Court.

4. Therefore, without expressing any view on the merits of the claim made by the petitioner, this Writ Petition is dismissed only on the ground that this Court cannot interfere with the summon issued by the authority, having jurisdiction over the subject matter in dispute. However, the dismissal of this writ petition will not prevent the petitioner from making all their objections before the first respondent, as this Court is not expressing any view on the merits of the objections. No costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

sni/mk

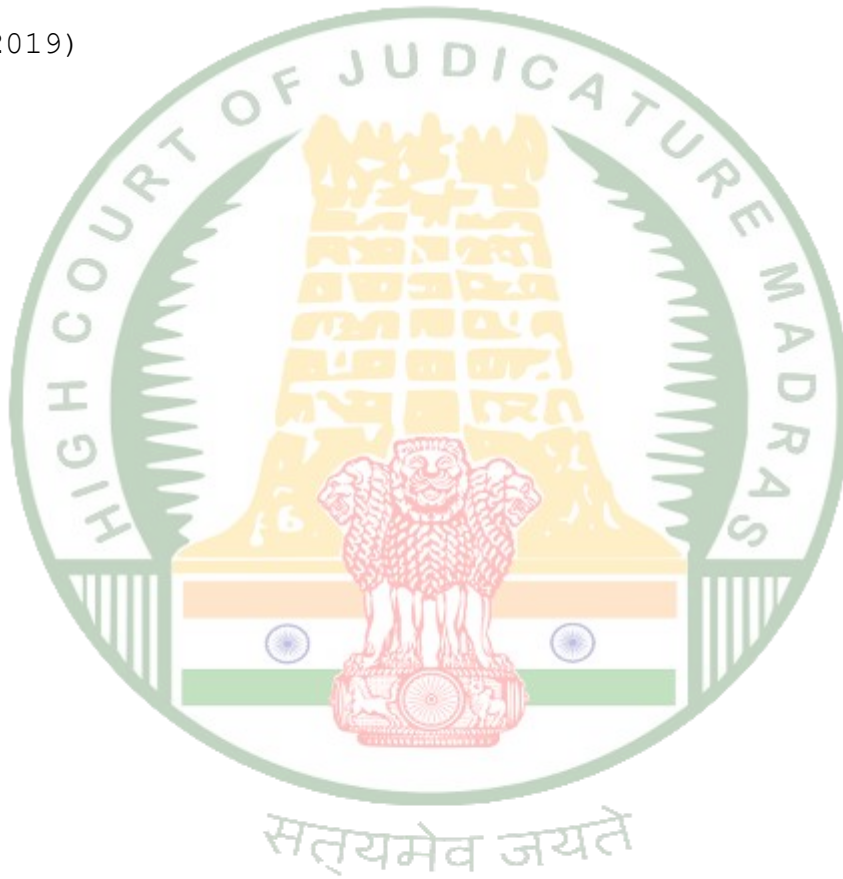
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+1 CC to Mr. Umesh Rao, Advocate sr 89255.
+1 CC to Mr.S.Raveekumar, Advocate sr 89569.

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SJ(CO)
SP(24/01/2019)



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