



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2018

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WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 4147 of 2018

R. Jeyakumar

... Petitioner

Vs.

1. The Deputy Assistant Commissioner of Customs (Airport),
International Airport,
Madurai.

2. The Air Customs Officer,
Madurai International Airport,
Madurai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent dated 23.02.2018 in O.S.No.36 of 2018 and quash the same as of no legal consequence and consequently direct the first respondent to release the crude gold chain belonging to the petitioner and weighing 99.700 gms. and also to refund the sum of Rs.10,000/- collected from the petitioner as a personal penalty.

For Petitioner : Mr.V.Singan

For Respondents : Mr.R.Aravindhan, Standing Counsel.

ORDER

The petitioner was employed in Dubai. He returned to India on 16.02.2018. While his baggage was being cleared, it was seen that an ornamental jewellery weighing 99.700 gms. of 24 carat was found in his baggage. The same was detained and seized. The first respondent passed the impugned order dated 23.02.2018 confiscating the same. The same is challenged in this Writ petition.

2. Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondents.

3. It is seen that even show cause notice was not issued in this case. The reasons set out in the impugned order is that the passenger himself waived the same. But then, this plea of waiver is contested by the petitioner. The learned counsel appearing for the petitioner would submit that the issue on hand is covered by the decision of the Hon'ble Supreme Court reported in (2018) 1 L.W. 412



(Directorate of Revenue Intelligence and others V. Pushpa Lekhumal Tolani).

4. Since the show cause notice was not issued and since certain triable issues have been brought for consideration, I am of the view that interest of justice require that a detailed order is passed. The respondent has proceeded in the matter, as if the petitioner admitted the acts alleged against him.

5. In this view of the matter, this Court directs that the order impugned shall be considered as show cause notice. The petitioner shall give his reply within a period of two weeks from the date of receipt of a copy of this order. After affording an opportunity of personal hearing, the first respondent shall pass orders afresh in accordance with law. The first respondent shall take note of the recent decision of the Hon'ble Supreme Court reported in (2018) 1 L.W. 412 (Directorate of Revenue Intelligence and others V. Pushpa Lekhumal Tolani).

6. The Writ petition stands allowed on these terms. No costs.
Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Assistant Commissioner of Customs (Airport),
International Airport,
Madurai.

2. The Air Customs Officer,
Madurai International Airport,
Madurai.

+1CC TO MR.R.ARAVINDAN, ADVOCATE. SR.NO.97238.

DS/SV/SAR 1/27.11.2018/2P/4C.
pmu

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