



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD).No.4299 of 2018
and
W.M.P.No.4402 of 2018

Sawkath Ali

...Petitioner

Vs.

The Joint Commissioner of Customs
(Preventive),
O/o Commissioner of Customs
(Preventive),
Government of India,
Ministry of Finance,
Department of Revenue,
No.1, Williams Road,
Cantonment, Trichy-626 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent made in Order-In-Original No.TCP/Cus./PRV/JTC/055-17 dated 07.12.2017, quash the same and direct the said respondent to conduct adjudication proceedings afresh after affording the petitioner the opportunity to cross-examine the named persons under reply dated 18.11.2017 and reiterated in the hearing before the said respondent.

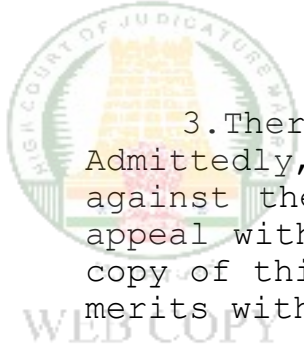
For Petitioner : Mr.S.Kameshwaran

For Respondents : Mr.Vijay Karthikeyan

ORDER

Heard the learned counsel on either side.

2.The order that is the subject matter of challenge in this Writ Petition was questioned in W.P.(MD).No.863 of 2018. The ground taken was that the authority had violated the principles of natural justice by not permitting the noticee to cross examine the co-noticees, even though their statements recorded under Section 108 of the Customs Act were relied upon. This Court held that such a right to cross examine the co-noticee is not available. The Writ Petition was dismissed and the petitioner therein was directed to avail the alternative remedy of filing a statutory appeal. It was further observed that except the issue already clarified by this Court, he can canvass all other points.



3. Therefore, in this case, a different stand cannot be taken. Admittedly, the writ petitioner has a remedy of filing an appeal against the impugned order. If the writ petitioner files such an appeal within a period of three weeks from the date of receipt of a copy of this order, the same shall be entertained and disposed of on merits without any reference to limitation

4. With this observation and liberty, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

TO

+1cc to Mr. Vijay Karthikeyan, Advocate, SR.No.52099
+1cc to Mr. S. Kameshwaran, Advocate, SR.No.52145.

W.P. (MD) .No.4299 of 2018
01.03.2018

TSG

RAM/SV MMS/SAR 2/08.05.2018/2P/3C