



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.8457 of 2018

Marjan

... Petitioner

Vs.

1.The Commissioner of Customs,
Trichy.

2.The Joint Commissioner of Customs,
No.1, Williams Road,
Cantonment,
Trichy.

3.The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Regional Unit 1103,
Trichy Road,
Coimbatore.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus to direct the respondents to release the petitioner's car, namely, Toyota Innova bearing its Registration Number TN-11-Z-2651, based on the order passed by the second respondent in TCP-CUS-PRV-JTC-031-18, dated 07.03.2018, within the stipulated period as fixed by this Court.

For Petitioner : Mr.S.Balaji
For Respondents : Mr.R.Aravindan
Standing Counsel

ORDER

This writ petition is filed for the release of the petitioner's car, namely, Toyota Innova bearing its Registration Number TN-11-Z-2651 on the basis of the order passed by the Joint Commissioner of Customs, Trichy - the second respondent, dated 07.03.2018.

2. According to the petitioner, she let her car to her friend, wherein the vehicle was involved in some illegal activities of smuggling gold without her knowledge. The vehicle was seized on 29.05.2017. After considering her case, the second respondent passed an Order-in-Original Number in TCP-CUS-PRV-JTC-031-18, dated 07.03.2018, wherein, paragraph 4 reads as under:



(iv) I order confiscation of Toyota Innova car bearing registration No.TN11 Z 2651 valued at Rs.4,00,000/- used for transportation of the smuggled gold under Section 115(2) of the Customs Act, 1962. However, in respect of the said vehicle, I give an option to Smt.Marjan to pay fine in lieu of confiscation under Section 125 of the Customs Act, 1962 to redeem the same on payment of redemption fine of Rs.40,000/- (Rupees Forty Thousand only) along with payment of applicable charges."

3. A direction was issued to pay a fine in lieu of confiscation under Section 125 of the Customs Act, 1962 to redeem the vehicle. In compliance with the order of the second respondent, the petitioner remitted the fine in TR-6 Challan No.57/2017-18, on 19.03.2018. In spite of the payment of fine amount, the vehicle was not released. Therefore, the present writ petition has been preferred.

4. Mr.R.Aravindan, learned Standing Counsel appearing for the respondents would vehemently oppose this petition on the ground that the issue involved is smuggling of gold bars. The main culprits are yet to be apprehended and there are other pending cases also against them and therefore, prays that this writ petition is liable to be dismissed.

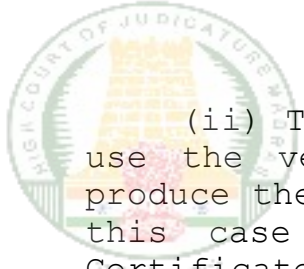
5. Heard both sides.

6. On considering the rival contentions, it should be noted that an Order-in-Original came to be passed on 07.03.2018 by the second respondent, wherein the redemption of the vehicle was ordered on payment of redemption fine of Rs.40,000/- (Rupees Forty Thousand only). Once the payment is made, the confiscation order under Section 125 of the Customs Act, 1962, will go. The petitioner is the owner of the vehicle and she is nothing to do with the illegal act committed by the other persons. Admittedly, the vehicle is lying with the respondents from 29.05.2017 onwards. In view of the order of the second respondent, she is entitled to get release of the vehicle.

7. Considering the facts and circumstances of the case as well as taking into consideration the objections made by the respondents, this Court is inclined to direct the respondents to release the vehicle in question.

8. Accordingly, the respondents are directed to release the vehicle in question to the petitioner within a period of two weeks from the date of receipt of a copy of this order subject to the following conditions:

(i) The petitioner shall produce documents before the respondents under whose custody the vehicle is kept, to establish the ownership of the vehicle in question;



(ii) The petitioner shall give an undertaking that she will not use the vehicle for any illegal activities in future and shall produce the same as and when required by the respondents relating to this case along with the original records, viz., Registration Certificate, etc.,;

(iii) On doing so, the vehicle in question shall be returned to the petitioner;

(iv) The petitioner shall not further encumber or alter the physical features or alienate the vehicle in question till the disposal of the proceedings before the authority concerned;

(v) The petitioner shall abide by the orders passed by the authority concerned or the respondents.

9. In the result, this writ petition is disposed of as above. No costs.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Customs,
Trichy.

2.The Joint Commissioner of Customs,
No.1, Williams Road,
Cantonment,
Trichy.

3.The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Regional Unit 1103,
Trichy Road,
Coimbatore.

+1cc to Mr.S.Balaji, Advocate, SR.No.66911.
+1cc to Mr.R.Aravindan, Advocate, SR.No.67456.

W.P(MD)No.8457 of 2018
06.06.2018

rsb

RAM/SKN RSK/SAR 4/13.06.2018/3P/6C