



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.11.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P.(MD)No.17959 of 2016 and
W.M.P.(MD)Nos.12956 & 12957 of 2016

A.Syed Mohamed

... Petitioner

Vs.

1. The Joint Commissioner of Customs,
O/o. The Commissioner of Customs,
No.1, Williams Road,
Tiruchirappalli - 620 001.

2. State represented by the Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.22/14, Roche Colony,
South Beach Road,
Tuticorin.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in C.No.VIII/10/01/2016-Cus.Adjn dated 22.07.2016 and quash the same as illegal, consequently direct the first respondent to release the petitioner's Maruti Swift Car bearing registration No.TN 02 AV 8746.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.R.Nandakumar,
Standing counsel.

O R D E R

The officials of the Directorate of Revenue Intelligence, Tuticorin, intercepted a Maruti Swift Car bearing Registration No.TN 02 AV 8746 at Pudukottai-Trichy Toll Plaza on 01.08.2015 and found gold contraband therein. The vehicle stands in the name of the petitioner herein. The petitioner was examined and he is said to have given a voluntary statement under Section 108 of the Customs Act,1962, stating that he is only a name lender and that the car actually belongs to his relative, namely, Shri Ayub Ali. Since the petitioner herein himself disowned any claim over the vehicle in question, the first respondent appears to have passed an order confiscating the said vehicle as it was used as a conveyance for committing a crime under the Customs Act.

2. The said order is challenged insofar as the confiscation part is concerned by the petitioner herein.



3. The learned Standing counsel appearing for the respondents drew my attention to Section 115 of the Customs Act and contended that any vehicle that is used for committing a crime under the Customs Act would be liable to be confiscated. He also pointed that the petitioner has given a statement under Section 108 of the Customs Act in this regard. Since the petitioner had stated that he has nothing to do with the vehicle in question, the first respondent did not deem it necessary to issue a notice to him.

4. I am of the view that the first respondent was obliged to have issued a notice to the petitioner herein before confiscating the vehicle in question. This is because, the vehicle even today stands in the name of the Writ petitioner herein. Therefore, the principles of natural justice will have to be read into Section 115 of the Customs Act.

5. In this view of the matter, the order impugned in the Writ petition is quashed insofar as it relates to the confiscation of the vehicle in question. It is made clear that the remaining part of the order is not touched. This Court is not inclined to direct the release of the vehicle in question straightaway. Instead the first respondent is directed to issue show cause notice to the petitioner herein and after hearing his objections, pass orders with regard to the confiscation or the release of the vehicle in question. The entire exercise shall be concluded within a period of 45 days from the date of receipt of a copy of this order.

6. This Writ petition stands partly allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/

Assistant Registrar(Crl Side)

/True copy/

Sub Assistant Registrar(CS-I)

To

1. The Joint Commissioner of Customs,
O/o. The Commissioner of Customs,
No.1, Williams Road,
Tiruchirappalli - 620 001.

2. The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.22/14, Roche Colony,
South Beach Road,
Tuticorin.

+1cc to Mr.R.NANDAKUMAR, Advocate, SR.No. 95066

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