THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION NO.11305 OF 2017

O R D E R

(*Per Hon'ble Sri Justice Sanjay Kumar*)

The prayer of the petitioner, a partnership firm, reads as under:

> 'This Hon'ble Court may be pleased to pass an order or orders or issue a writ or writs more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd Respondent in proceeding with the enquiry and issuing summons dated 22/08/2016, 29/11/2016, 17/02/2017 and 08/03/2017 as illegal, unauthorized, beyond limitation, without jurisdiction, *ultra vires* the provisions of the Customs Act, 1982 and violative of Articles 14 and 21 of the Constitution of India and pass such other order or orders as it deems fit and proper in the interests of justice.'

Taking note of the complaint of the Managing Partner of the petitioner firm that he was being summoned to Lucknow time and again for the purpose of a personal enquiry, this Court granted an interim order on 30.03.2017, which reads as under:

> 'Mr. B.Narayana Reddy, learned Assistant Solicitor General, takes notice for the respondents.
>
> If the 3rd respondent wants the petitioner to produce any specific documents, he shall furnish a list, containing the details of the documents. The documents sought for, by the 3rd respondent, if available, shall be produced by the petitioner. If any of the documents called for, are not available, the petitioner shall intimate the same to the 3rd respondent. But, since the partners of the petitioner have so far appeared for a personal enquiry on three earlier occasions, the 3rd respondent shall not call for them for a personal enquiry, until further orders.
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> Post after three weeks for counter.'

Sri P.Balaji Varma, learned counsel for the petitioner firm, would inform this Court that during the pendency of this writ petition, the Directorate of Revenue Intelligence, Zonal Unit, Lucknow, issued show-cause notice dated 18.05.2017 to the petitioner firm giving it 30 days time to respond thereto. Learned

counsel would fairly state that owing to the pendency of this writ petition, the petitioner firm did not choose to reply to the aforestated show-cause notice within the time stipulated. He would however pray that if some more time is given, the petitioner firm would submit its explanation to the show-cause notice. He would further inform this Court that a statement was secured by the authorities at Lucknow on 02.09.2016 but his client claims that the said statement was obtained under coercion and duress. He would state that a complaint in this regard was submitted to the Additional Director General, Directorate of Revenue Intelligence, Zonal Unit, Lucknow, on 06.09.2016 but the same was not given any credence by the Deputy Director, Directorate of Revenue Intelligence, under letter dated 23.09.2016. Learned counsel would submit that this aspect of the matter may also be left open to be addressed by the petitioner firm in its reply to the show-cause notice dated 18.05.2017.

The grievance of the petitioner firm, and more particularly its Managing Partner, in the present writ petition was only with regard to the number of times that he was being summoned to Lucknow for the purpose of enquiry. As the authorities have now progressed to the stage of issuing a show-cause notice, we are of the opinion that this writ petition does not require consideration on merits as he may no longer be required to attend to the authorities' preliminary enquiries at Lucknow.

It is now for the petitioner to address the issues raised in the show-cause notice dated 18.05.2017. However, as the time stipulated for furnishing a reply thereto has already expired, we are of the opinion that the petitioner firm may be granted two more weeks time from the date of receipt of a copy of this order to submit its

explanation to the aforestated show-cause notice. All issues are left open to be decided by the authorities on their own merits and in accordance with law.

The writ petition is accordingly disposed of. Interim order dated 30.03.2017 shall stand vacated. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

P.KESHAVA RAO, J

29th JANUARY, 2018

Note: Issue C.C. in two days.
B/o Svv