

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

WRIT PETITION NO.16167 of 2017

ORDER: (per SK,J)

The prayer of the petitioner in this case reads as under:

'For the reasons stated in the accompanying affidavit, it is therefore prayed that this Honourable Court to pass an order, direction, writ more in the nature of Writ of Mandamus directing the respondents to release the export consignment comprising of 100% COTTON KNITTED MENS VEST, covered by 6 shipping bills and Invoice Nos.GFE006/16-17, GFE007/16-17, GFE008/16-17, GFE009/16-17, GFE0010/16-17 and GFE0011/16-17 dated 06.09.2016 for shipment to HONEY FASHION DESIGN L.L.C., Dubai, United Arab Emirates and pass such other order or orders may this Honourable Court deem fit and proper in the interest of justice and circumstances of the case.'

It is an admitted fact that the consignment was seized by the customs authorities on 17.09.2016 under a Panchanama.

Sri M.V.J.K.Kumar, learned counsel for the customs authorities, would inform this Court that a show cause notice has already been issued to the petitioner and it is yet to respond.

Sri P.Vinod Kumar, learned counsel for the petitioner, would place reliance on Section 110A of the Customs Act, 1962, which deals with provisional release of goods pending adjudication and state that the customs authorities may be directed to release the consignment which has been seized upon obtaining a bond from his client along with such security and conditions as they may require. However, learned counsel fairly concedes that the petitioner did not even apply to the authorities for exercise of the discretionary power vesting in them under the aforesaid provision.

Without doing so, it is not open to the petitioner to seek a writ of mandamus from this Court. The question of the petitioner complaining of inaction on the part of the authorities does not arise, when he has not even approached them seeking exercise of power under the statutory provision.

The writ petition is accordingly dismissed on this short ground. This order shall however not preclude the petitioner from taking necessary steps at least at this stage.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.



SANJAY KUMAR,J

P.KESHAVA RAO,J

Date:14.02.2018

Note:

Furnish C.C. in one week.

(B/o)

GJ