

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S. RAMESH

W.P.No.10816 of 2015

Abishek Mundhra

... Petitioner

-vs-

The Joint Commissioner of
Customs (Adjudication-AIR),
O/O.The Principal Commissioner
of Customs Commissionarate,
Chennai - 1 (Airport),
New Customs House,
Meenambakkam,
Chennai - 600 027.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order in Order in Original No.95/17/02/2015, dated 17.02.2015 of the respondent and to quash the same.

For Petitioner : Mr.N. Muralikumaran
For Respondent : Mr.S. Rajasekar, JSC

ORDER

While the petitioner herein had challenged the seizure of 15.160kg of Gold Bars under a Mahazar dated 14.10.2013 in W.P.No.5663 of 2014, the consequent Order in Original, confiscating the seizure gold, is under challenge in this Writ Petition.

2.Though the petitioner herein had raised several grounds, challenging the seizure as well as the confiscation order, one of the main grounds raised by the learned counsel for the petitioner is that no opportunity was provided to him when the confiscation order in original came to be passed and therefore, the learned counsel would seek for remanding the matter to the Authorities for reconsideration for extending an opportunity to him.

3.The learned Standing Counsel appearing for the respondent submitted that sufficient opportunity was extended to the petitioner and inspite of the same, he had not availed such opportunities and therefore, it cannot be said that opportunity was not at all extended to the petitioner.

4.From a perusal of the Order in Original dated 17.02.2015, it is seen that the Joint Commissioner of Customs had observed that the personal hearing was granted on 12.08.2014 and 17.09.2014, at which point of time, the authorised representative of the petitioner requested for adjournment which was also considered and the time was extended to 29.09.2014. On that date, no one had appeared for the personal hearing and no written reply was filed and therefore, the impugned order came to be passed. I do not find any infirmity in such an observation that inspite of opportunities being granted on earlier three occasions, the petitioner was not ready to get along with the adjudication and thereby, it can be said that opportunities were extended to the petitioner. Nevertheless, it is also seen from the letter of the authorised representative of the petitioner that a mention has been made with regard to the pendency of this Writ Petition before this Court and therefore, they sought for time challenging the show cause notice issued prior to the confiscation order.

5.It is also the submission of the learned counsel for the petitioner that he has sufficient materials to substantiate his claim before the original authorities and in view of the pendency of that Writ Petition, he was unable to file a reply in time.

6.This Court is of the view that if an opportunity is granted to the petitioner to substantiate his claim before the original authorities by taking a lenient view, the ends of Justice would be met. As such without going into the merits of the case or any of the other grounds raised by the petitioner, the Order in Original dated 17.02.2015 is set aside and the matter is remanded back to the respondent herein for fresh consideration. The petitioner is at liberty to file his objections within a period of 30 days from the date of receipt of a copy of this order and the respondent herein shall consider and dispose of the objections as expeditiously as possible in any event within a period of three months thereafter.

This Writ Petition is disposed of accordingly. There shall be no order as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

mps

To

The Joint Commissioner of
Customs (Adjudication-AIR),
O/O.The Principal Commissioner
of Customs Commissionarate,
Chennai - 1 (Airport),
New Customs House,
Meenambakkam,
Chennai - 600 027.

+1 cc to Mr.S.Rajasekar Advocate sr71276

+1 cc to Mr.Mc.Gan Law firm Advocate sr70516

W.P.No.10816 of 2015

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