

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:22.01.2019

CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.1565 of 2019
and
W.M.P.No.1739 of 2019

M/s Southern Gold Private Limited
Represented by its Director Mr.Collins C.A
2/573-A1, Christopher Nagar
Anchery P.O, Thrissur 680006.

...Petitioner

Vs.

Commissioner of Customs,
Office of the Principal Commissioner of Customs,
New Custom House Chennai-VII Commissionerate,
Air Cargo Complex, Meenambakkam,
Chennai 600027.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari quashing the Show Cause Notice in F.No.S.Misc.012-2018-Bonds(AIR) dated 29.09.2018 as modified by an Addendum to Show Cause Notice dated 29.09.2018 in F.No.S.Misc.012-2018 dated 24.12.2018.

For Petitioner: Mr.N.Venkataraman
Senior Counsel
for Mr.S.Muthuvenkataraman

For Respondent: Mr.T.L.Thirumalaisamy
Central Government Standing Counsel

O R D E R

Mr.T.L.Thirumalaisamy, learned Central Government Standing Counsel takes notice for the respondent. By consent of the parties, this main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the Show Cause Notice dated 29.09.2018 as modified by an Addendum to Show Cause Notice dated 24.12.2018.

3. Heard Mr.N.Venkataraman, learned Senior Counsel appearing for the petitioner and Mr.T.L.Thirumalaisamy, learned Central Government Standing Counsel who took notice for the respondent.

4. The learned Senior Counsel appearing for the petitioner submitted that the respondent is not justified in issuing the impugned Show Cause Notice, when the subject matter referred to in the notice, namely, Order in Original No.30/2018 and Order in Original No.31/2018 dated 27.03.2018 and further order passed by the Appellate Authority are all put to challenge before the High Court of Kerala and that the Kerala High Court has granted an interim order of stay of those proceedings. Therefore, the learned Senior Counsel contended that the respondent, in any event, cannot proceed with the impugned Show Cause Notice, even assuming the petitioner is filing a reply to the said notice.

5. Though, the learned Senior Counsel for the petitioner vehemently contended that the impugned Show Cause Notice cannot be allowed to proceed further based on the above stated reasons and circumstances, this Court is not inclined to go into such contentions and express its view on the merits of those contentions, for the simple reason that a challenge made in this writ petition is only against a Show Cause Notice and therefore, the petitioner can raise all the contentions as raised in this writ petition before the respondent by way of filing their reply. When the impugned proceedings, namely the Show Cause Notice is issued by the competent authority having jurisdiction, interference against such Show Cause Notice is not required, at this stage, since the petitioner has to first place all the submissions before the authority who issued the Show Cause Notice, by way of their reply so as to enable him to take a decision base on such reply. Without doing so, the petitioner has filed this Writ Petition. Needless to state the well settled proposition of law that a Writ would not lie against the show cause notice in the absence of jurisdictional issue. Therefore, I find that the present writ petition is highly premature. It is also made clear that this Court is not expressing any view on the merits and contentions raised by the petitioner against the contents of the Show Cause Notice, as it is for them to raise all those contentions before the respondent. Thus, by granting such liberty to the petitioner to file such reply within a period of three weeks from the date of receipt of a copy of this order, this writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

Commissioner of Customs,
Office of the Principal Commissioner of Customs,
New Custom House Chennai-VII Commissionerate,
Air Cargo Complex,
Meenambakkam,
Chennai 600027.

+1cc to Mr.Muthu Venkataraman, Advocate, S.R.No.4428

+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.4684

W.P.No.1565 of 2019

RR(CO)

rrs 15/02/2019



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