

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 18.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.31474 of 2004

A.S.A.Kabir

... Petitioner

Vs

1. The Commissioner of Customs (Judicial),
(Formerly designated as
Collector of Customs)
Custom House,
Madras - 600001.

2. The Asst. Collector of Customs,
(Prosecution Cell)
Custom House,
Madras - 600001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to release the confiscated goods of 42 Gold Bars weighing 4.893 Kgs and six Nos. of silver ingots totally weighing 234.904 Kgs totally valued at Rs.33,94,174/- (market value) on file No.O.S.70/93-RD of the first respondent.

For Petitioner : Mr.Shrutham
for Mr.A.K.Ramachandran

For Respondents : Mr.V.Sundareswaran, SSC

O R D E R

By an Order-in-Original dated 17.02.1994, the Collector of Customs had confiscated 42 Gold Bars weighing 4.893 Kgs and six Nos. of silver ingots weighing 234.904 Kgs, totally valued at Rs.33,94,174/- under Section 111(d) of the Customs Act, 1962 read with Section 3(2) of the Imports and Exports Control Act, 1947. As against the said confiscation proceedings, the matter was taken before CESTAT, wherein, the order of confiscation was upheld on 22.04.1996. The petitioner herein had thereafter filed a revision before this Court, which also came to be rejected on 23.04.2001, upholding the confiscation order. It is also stated that the petitioner herein had preferred an appeal before the Hon'ble Supreme Court in SLP.(Civil) No.17164 of 2001, which was rejected on 02.11.2001, confirming the confiscation orders. As such, the confiscation orders have become final.

2. The petitioner herein had predominantly raised a ground before this Court stating that they were acquitted of the criminal charges arising out of the issue pertaining to the confiscation proceedings and in view of the acquittal, they would be entitled for release of the confiscated goods. I am unable to agree on such a ground raised in the present writ petition.

3. A mere order of acquittal in the criminal proceedings would not entitle the petitioner to seek for release of the confiscated goods, particularly in the light of the fact that the confiscation proceedings have become final. When the right of the petitioner to seek for release of the confiscated goods has finally been adjudicated by the Hon'ble Supreme Court, a mere reference to the acquittal orders, in favour of the petitioner, from the criminal proceedings would never give him the right to seek for release of the confiscated items. As such, I do not find any merits in the claim made by the petitioner in the present writ petition.

4. Accordingly, the writ petition stands dismissed.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Customs (Judicial),
(Formerly designated as Collector of Customs)
Custom House, Madras - 600001.
2. The Asst. Collector of Customs,
(Prosecution Cell) Custom House,
Madras - 600001.

+1 cc to M/s.V.Sundarareswaran, Advocate Sr.No. 61493

GI(C.O.)
AKM/ 16.08.19/ 2P-4C /

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