IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.8527 of 2019
and
W.M.P.Nos.9044 & 9045 of 2019

Shri.M.S.Alaudeen ...Petitioner

Vs

1. The Deputy Director,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road, T.Nagar,
Chennai-600 017.

2. The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road, T.Nagar,
Chennai-600 017. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to return the seized Gold to an extent weighted 2.810 Kilograms, valued at Rs.91,95,725/-, vide mahazar dated 12.12.2018, from the petitioner's business premises.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Mr.V.Sundareswaran
Senior Panel Counsel

O R D E R

Mr.A.K.Jayaraj, learned counsel on record for writ petitioner and Mr.V.Sundareswaran, learned Senior panel counsel (Taxes) on behalf of both the official respondents are before this Court. With consent of learned counsel on both sides, main writ petition itself taken up and is being disposed of .

2. Considering the trajectory which the hearing has taken today, this writ petition now turns on a very narrow compass.

3. Gold weighing 2.810 kilograms, valued at Rs.91,95,725/- (Rupees Ninety one Lakhs Ninety Five thousand Seven Hundred and Twenty Five only) was seized from the writ petitioner on 12.12.2018. Such seizure was made from the writ petitioner's business premises.

4. Instant writ petition has been filed seeking to mandamus the respondents to return the aforesaid seized gold.

5. The respondents have filed a counter affidavit.

6. Learned counsel for writ petitioner submitted that the respondents do not have powers to make such seizure.

7. Per contra, Learned Revenue counsel drew the attention of this Court to Section 110 of the Customs Act, 1962 (hereinafter referred as 'said Act' for brevity) and submitted that the respondents do have powers to make such seizure.

8. A perusal of Section 110 of the said Act reveals that the respondents do have the powers to make such seizure.

9. On this primordial plea of the writ petitioner i.e, a plea that the respondents do not have powers to seize being doused, one has to now look at the procedure for release of the seized goods, which is the prayer of the writ petitioner.

10. Provisional release of such seized goods can be made under Section 110 A of the said Act.

11. In this regard, learned Revenue counsel drawing the attention of this Court to Paragraph No.11 of the counter affidavit, submits that an application under Section 110 A has to be made to the 1st respondent in the instant case and a letter dated 07.02.2019 sent by the writ petitioner has not been received by the respondent. To be noted, the letter dated 07.02.2019 from writ petitioner is annexed to the typed set of papers and the same is addressed to the Senior Intelligence Officer, 'Directorate of Revenue Intelligence' ('DRI' for brevity), who is 2nd respondent in instant writ petition. It is submitted that the application under Section 110 A of said Act can be processed if it is submitted to 1st respondent.

12. This Court is informed that pending this writ petition, the respondents have issued a 'show cause notice' ('SCN' for brevity), being SCN dated 07.06.2019.

13. It is submitted that the SCN dated 07.06.2019 has been served on the writ petitioner on 09.06.2019.

14. In the light of the narrative supra, though prayer in this writ petition turns on a narrow compass, this Court deems it appropriate to dispose of the instant writ petition by making the following order:

a) Writ petitioner shall make an application to the 1st respondent under Section 110 A of the Customs Act 1962 seeking provisional release of the seized goods which forms subject matter of instant writ petition i.e., Gold weighing 2.810 kilograms, valued at Rs.91,95,725/- (Rupees Ninety one Lakhs Ninety Five thousand Seven Hundred and Twenty Five only) . Aforesaid application to 1st respondent shall be made by writ petitioner within a fortnight from the date of receipt of a copy of this order.

b) On receipt of the aforesaid application for provisional release, under Section 110 A of the said Act, 1st respondent shall do the needful for having the same processed in a manner know to law as expeditiously as possible and in any event, within 8 weeks from the date of receipt (receipt by 1st respondent) of Section 110 A application.

c) The order regarding provisional release shall be communicated to the writ petitioner under due acknowledgment within 7 working days from the date on which the order is made.

d) Though obvious it is made clear that it is open to the writ petitioner to either reply to SCN or assail the same in a manner known to law and the order passed in this writ petition will not impede such proceedings.

15. Accordingly, this writ petition is disposed of with the above directions. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sk

To

1. The Deputy Director,
   Directorate of Revenue Intelligence,
   No.27, G.N.Chetty Road, T.Nagar,
   Chennai-600 017.

2. The Senior Intelligence Officer,
   Directorate of Revenue Intelligence,
   No.27, G.N.Chetty Road, T.Nagar,
   Chennai-600 017.

+1 cc to Mr.V.Sundareswaran, Advocate, S.R.No.52470

W.P.No.8527 of 2019

RSI(CO)
SSM(15/07/2019)