



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :24.07.2019

CORAM
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.18499 of 2019

T.R.Boopalan

..Petitioner

vs

The Addl. Commissioner of Customs
O/o.The Commissioner of Customs, Chennai II
No.60, Rajaji Salai, Customs House
Chennai - 600 001.

..Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to provide the petitioner with a certified copy of the Order in Original No.167595/2019 dated 19.02.2019 passed by the respondent, by considering the representation of the petitioner dated 12.06.2019, so as to enable the petitioner to take further legal recourse in a manner known to law, in the form of filing of an appeal against the above said order before the first appellant authority under the Customs Act.

For Petitioner : Mr.S.Baskaran

For Respondent : Mr.K.S.Ramaswamy
standing counsel (Customs & Excise)

O R D E R

Mr.S.Baskaran, learned counsel on record for writ petitioner and Mr.K.S.Ramaswamy, learned standing counsel for Customs and Excise on behalf of the lone respondent are before this Court.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. Owing to what unfurled in the hearings, entire writ petition now turns on an extremely narrow compass, the scope of the writ petition itself is being very limited.

4. Subject matter of disputation in writ petition is receipt /non receipt of an order made by the lone respondent being order dated 19.02.2019 bearing reference 'Order in Original No.67595/2019' [hereinafter 'said order' for brevity].



5. It is the case of the writ petitioner that in the course of his business, he came to know that the respondent has passed said order inter alia imposing a penalty of Rs.2,00,000/- (Rupees Two Lakh Only) on the writ petitioner under Section 112(a) of the Customs Act. It is the further case of the writ petitioner that though the writ petitioner came to know about this order in the course of his business, a certified copy of the order was never served on the writ petitioner.

6. Writ petitioner submits that he is residing in the same address for more than nine years now and the full / complete postal address of the writ petitioner as contained in the case file / writ petition placed before this Court is as follows:

'T.R.Boopalan
S/o.Mr.Ramalingam
No.3A, Kennedy Square, 2nd North Street
Thiru.Vi.Ka.Nagar, Chennai - 600 011'

7. Articulating the aforesaid complaint pertaining to non receipt of said order, writ petitioner sent a representation dated 12.06.2019 to the respondent. This 12.06.2019 representation of the writ petitioner has been hand delivered to the sole respondent on the same day. Alleging inaction i.e., stating that the representation has not evoked / evinced any response or reply (much less has the request has been acceded to) instant writ petition has been filed. To be noted in the representation, writ petitioner has sought for a certified copy of the said order.

8. Instant writ petition has been filed with a prayer to Mandamus the respondent to provide the petitioner with certified copy of said order, in the light of the aforesaid representation dated 12.06.2019.

9. The respondent has filed a counter affidavit, dated 12.07.2019 along with an annexure. Adverting to the counter affidavit, learned Revenue counsel submitted that said order has been despatched to the writ petitioner by Speed Post on 19.03.2019 and the envelope had been returned to the office of the respondent with the postal endorsement 'Refused'. To be noted, the postal endorsement is dated 21.03.2019. Despatch of the said order by Speed Post to the writ petitioner by the office of the respondent is under postal receipt bearing reference 'ET216978885IN'.

10. However, learned counsel for writ petitioner, on instructions, submitted that the said order said to have been despatched in the aforesaid manner and refused by the addressee was never brought to the writ petitioner by the postal authorities. Therefore, the learned Revenue counsel undertook to produce the records and this has been captured in the earlier



proceedings dated 19.07.2019 which reads as follows:

'Learned Revenue counsel seeks time to produce the file.
List on 24.07.2019 in the Motion List.'

11. Today, the file has been produced.

12. A perusal of the file reveals that the despatch of said order by the office of the respondent has infact happened and it is in a window envelope. Though it is in a window envelope, the name of the writ petitioner and the postal address is handwritten by the side of the transparent window.

13. Be that as it may, learned counsel for writ petitioner points out that the handwritten address as in the aforesaid envelope reads as follows:

'To

Shri T.R.Boopalan

No.3A, Kennedy Street, TVK Nagar

Chennai - 600 011.'

To be noted, what according to writ petitioner is his correct correct postal address has been reproduced in paragraph 6 supra. A perusal of the two addresses brings to light that the name of the Street itself has been wrongly described in the handwritten address in the envelope. While the writ petitioner's residence is in '2nd North Street, Thiru.V.Ka.Nagar', the aforementioned returned envelope describes the same as 'Kennedy Street, TVK Nagar'. No elaboration is required to say that there is a world of difference between '2nd North Street, Thiru.V.Ka.Nagar' and 'Kennedy Street, TVK Nagar'.

14. Writ petitioner counsel on instructions, emphatically asserted the aforesaid envelope was not refused by the writ petitioner. Obviously, it has been taken to another individual, who has refused it as he is not the intended recipient. In this backdrop, this Court deems it appropriate to accede to the prayer of the writ petitioner, holding that certified copy of said order has not been duly served on the writ petitioner.

15. The respondent is directed to provide a certified copy of the said order i.e., 'Order in Original No.67595/2019' dated 19.02.2019 by despatching it by Speed post with acknowledgment due to the full / complete and correct address of writ petitioner, i.e., 'T.R.Boopalan, S/o.Mr.Ramalingam, No.3A, Kennedy Square, 2nd North Street, Thiru.Vi.Ka.Nagar, Chennai - 600 011' within a fortnight from today.

16. Though obvious, it is made clear that in the light of the narrative thus far, the date of receipt of the certified copy of said order by the writ petitioner in the aforesaid manner will be the reckoning date for any computation that may



become necessary qua the impugned order.

17. This writ petition is disposed of with above direction.
No costs.

WEB COPY

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

kak

To

The Addl. Commissioner of Customs
O/o. The Commissioner of Customs, Chennai II
No. 60, Rajaji Salai, Customs House
Chennai - 600 001.

+1cc to Mr. S. Baskaran, Advocate, S.R.No. 63723
+1cc to Mr. K. S. Ramasamy, Advocate, S.R.No. 63640

W.P.No. 18499 of 2019

RV (CO)

RRS (28/08/2019)