



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2019

CORAM

WEB COPY

THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)No.4541 of 2012
and M.P.(MD)Nos.1 & 2 of 2012

John Alexander

... Petitioner

-Vs-

1.The Commissioner of Customs,
Customs House, New Port,
Thoothukudi.

2.The Additional Director General,
Directorate of Revenue Intelligence,
No.25, Gopalakrishna Road,
T.Nagar, Chennai-17.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to impugned order passed by the first respondent dated 30.11.2007 in C.No.VIII/10/252/2006-Adjn./Order No.64/2007 and quash the same.

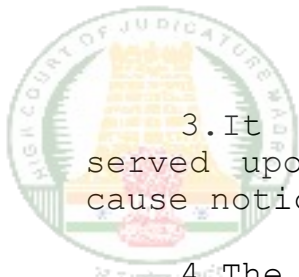
For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.R.Nandakumar

ORDER

The petitioner challenges an order dated 30.11.2007, which is an order-in-original passed in terms of the Customs Act, 1962.

2.The short point raised and argued is that the petitioner was not heard prior to the passing of the impugned order. A counter has been filed wherein, at paragraph No.4, it is contended that a show cause notice was served on the writ petitioner on 11.01.2007 under acknowledgment through the Superintendent of Prison, Central Prison, Madurai-16, since the petitioner was under incarceration at the relevant time. This is not disputed by the petitioner. However, pursuant to the show cause notice, the counter states that notices of personal hearing were issued, fixing the hearing dates on 10.10.2007, 10.11.2007 and 29.11.2007, in order to enable the petitioner to defend the charges levelled against him.



3.It is the petitioner's case that these notices were not served upon him. The counter would also indicate that the show cause notices were not served on the petitioner.

4.The proceedings in question are in terms of the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act and the petitioner had been detained on 26.04.2006. It was incumbent upon the authorities to have ensured strict compliance with the provisions of natural justice which is not seen to have been done in this case. In this view of the matter, I am inclined to set aside the order in original on the ground that the Principles of natural justice have not been complied with.

5.Let proceedings be initiated and completed de-novo within a period of three months from date of receipt of a copy of this order, after hearing the petitioner in person and affording sufficient opportunity to him to submit all relevant documents in support of his stand.

6.This Writ Petition is allowed, in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1.The Commissioner of Customs, Customs House, New Port,
Thoothukudi.

2.The Additional Director General,
Directorate of Revenue Intelligence,
No.25, Gopalakrishna Road, T.Nagar, Chennai-17.

+1 CC to M/s.R.NANDAKUMAR, Advocate (SR-75070[F] dated 12/07/2019)

W.P. (MD) No.4541 of 2012
11.07.2019

TM/GNS
MS/13.09.2019/2P.4C