

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 2498 OF 2019

Javed Shaikh @ Sameer Shah

... Petitioner

V/s.

Union of India and Anr.

... Respondents.

Mr. Raichandani a/w. Ms. Pragya Koolwal for the Petitioner

Mr. J.B. Mishra for Respondent 1

Mr. Pradeep Jetly for Respondent 2

***CORAM : NITIN JAMDAR &
M.S. KARNIK, JJ.***

DATE : 30 JANUARY 2020.

P.C. :-

The Petitioner has challenged the Order-in-Original No.CAO NO: CC-VA/26/2018-19 dated 13 March 2019 passed by the Respondent No.2 imposing the penalty of Rs.90,05,396/- on the Petitioner under Section 112 of the Customs Act, 1962.

2. We heard this Petition from time to time and had called upon the Respondents to produce the file regarding the service of notice on the Petitioner in view of the contention of the Petitioner

that notices of personal hearing were not served on him, there has been breach of principles of natural justice. It is the contention of the Petitioner that in these circumstances, instead of relegating the Petitioner to the appellate remedy, the Writ Petition be entertained.

3. Initially the Respondents contended that the Petitioner, inspite of knowledge of the proceedings, did not attend the personal hearing scheduled on 15 November 2018, 18 December 2018 and 5 February 2019. The Petitioner has asserted that he did not get notice of the said hearing and last he had appeared on 31 July 2019.

4. It is not necessary for us to dwell further on this issue as the learned Counsel for the Respondents, on the examination of the record and upon instructions, states that an opportunity will be given to the Petitioner of personal hearing and an order will be passed. He states that the Petitioner be put to the conditions that the Petitioner will attend the hearing before the adjudicating authority.

5. In the circumstances, we set aside the order dated 13 March 2019 and the proceedings before the Respondent No.2 stands revived. The Petitioner will attend the office of the Respondent No.2 on 24 February 2020 at 11.00 a.m. The Petitioner, on affidavit, will give his address for future correspondence. In addition, the Petitioner will also give the details on affidavit of his representatives, on whom service of any further notice by the

Petitioner will also be considered as a service. The Respondent No.2, if the hearing is not concluded on 24 February 2020, will inform the Petitioner of the next date.

6. Since we have set aside the order on limited ground as above, we make it clear that we have not reflected on the merits of the contentions.

7. Writ Petition disposed of on above terms.

M.S. KARNIK, J.

NITIN JAMDAR, J.

Jyoti P.
Pawar

Digitally signed
by Jyoti P.
Pawar
Date:
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