IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.01.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Writ Appeal No.1303 of 2013

M/s.Nakoda Unique Gold Private Limited
Rep.by its Managing Director K.Ramanlal
No.59, NSC Bose Road, Chennai 600 079.
... Appellant / Petitioner

-Vs-

1.Union of India
Represented by its Revenue Secretary
Department of Revenue, Ministry of
Finance, North Block, New Delhi-1.

2.The Additional Director General
Directorate General of Revenue Intelligence
25, Gopalakrishnan Road, T.Nagar
Chennai 600 017.

3.The Commissioner of Customs (Air)
New Building, Air Cargo Complex
Meenambakkam, Chennai 600 027.
... Respondents/ Respondents

For Appellant : Mr.N.Murali Kumaran
For Respondent : Mr.V.Sundareswaran - for RR 1 & 2
Mr.T.Chandrasekaran - for R3

Prayer : Appeal under Clause 15 of the Letters Patent against the order of this Court dated 10.06.2013 passed in W.P.No.31842 of 2012.

Prayer in in W.P.No.31842 of 2012:
Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of prohibiting the respondents from proceeding with the adjudication in any manner with the Show Cause Notice dt 14th November 2012 in F. No. VIII/48/39/2012-DRI issued by the 2nd respondent.

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI, J.)

This Writ Appeal has been filed by the Assessee M/s.Nakoda Unique Gold Private Limited, against the order of the learned Single Judge dated 10.06.2013 by which W.P.No.31842 of 2012 filed by the Assessee was disposed of by the learned Single Judge with the following directions.

> "19. Accordingly, the petitioner is directed to submit his explanation to the impugned show cause notice dated 14.11.2012 within a period of four (4) weeks from today, in which event, the respondents viz., the authorities concerned shall look into the same, but not take any final decision thereon. Also, considering the peculiar circumstances, the respondents shall maintain status quo as on date till the conclusion of the proceedings. However, any final decision of the respondents viz., the authorities concerned shall look into the same, but not take any final decision thereon. Also, considering the peculiar circumstances, the respondents shall maintain status quo as on date till the conclusion of the proceedings. However, any final decision of the respondents is subject to the outcome of the investigation already taken up with the appropriate Government and they shall not conclude anything until the position is made clear by the authorities of the Kingdom of Thailand."

2. Learned counsel for the appellant Assessee Mr.Murali Kumaran submitted that till the clarification is issued by the Kingdom of Thailand in terms of the said order, no effective reply could be given to the impugned show cause notice dated 14.11.2012 and therefore, no useful purpose will be served by relegating the Assessee before the concerned authority.

3. Learned counsel for the Revenue Mr.V.Sundareswaran however supported the impugned order.

4. Having heard the learned counsel for both the parties, we are satisfied that no interference is called for in the order of the learned Single Judge, which in our opinion, adequately protects the interest of the Assessee / appellant before the concerned authority as well. It is needless to say that explanation has to be submitted by the Assessee in

pursuance of the impugned notice dated 14.11.2012 and the Assessee is free to raise all the contentions before the concerned authority. Since the learned single Judge has already protected the interests of the Assessee / appellant that no final order will be passed by the concerned authroity without appropriate explanation with regard to the treaty to the Kingdom of Thailand, we think that when such clarifications are received by the Government, the Assessee is bound to again have his say before the concerned authority. Hence, the concerned authority, after giving such reasonable opportunity to the Assessee, shall pass appropriate orders, after dealing with the contentions raised by the Assessee.

5. We do not find anything in the present Writ Appeal to interfere on the merits of the case and we are of the opinion that the directions issued by the learned Single Judge call for no interference by this Court. The Writ Appeal is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KST
To

1.The Revenue Secretary
Department of Revenue, Ministry of
Finance, North Block, New Delhi-1.

2.The Additional Director General
Directorate General of Revenue Intelligence
25, Gopalakrishnan Road, T.Nagar
Chennai 600 017.

3.The Commissioner of Customs (Air)
New Building, Air Cargo Complex
Meenambakkam, Chennai 600 027.

+1cc to Mr.Megan Law firm , Advocate SR.No. 2695
+1cc to Mr.V.Sundareswaran , Advocate SR.No. 2299

W.A.No.1303 of 2013

A.SK(20/02/2020)