

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 28573 of 2013
and
M.P. No. 1 of 2013**

Ashish Mundhra

... 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 (Imports),
Air Cargo Complex,
Meenambakkam,
Chennai – 600 027.
4. The Senior Intelligence Officer,
Office of the Directorate of Revenue Intelligence,
Chennai Zonal Unit,
No. 25, Gopaalakrishnan Road,
T. Nagar,
Chennai – 600 017.

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

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Prohibition, prohibiting the Respondents from proceeding with the adjudication in any manner with the show cause notice dated 07.10.2013 in F. No. VIII/48/06/2013-DRI issued by the Second Respondent.

For Petitioner : Mr. N.Muralikumaran

For Respondent : Mr. T.Chandrasekaran,
Central Government Standing Counsel
(for R1, R2 & R4)

Mr. V.Sundareswaran,
Standing Counsel (for R3 & R5)

ORDER
(through video conference)

Heard Mr. N.Muralikumaran, Learned Counsel for the Petitioner and Mr. T.Chandrasekaran, Learned Central Government Standing Counsel appearing for the First, Second and Fourth Respondents and Mr. V.Sundareswaran, Learned Standing Counsel appearing for Third and Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Order No. VIII/48/06/2013-DRI dated 07.10.2013 passed by the Second Respondent, which is evidently a show cause notice for which the Petitioner has been required to submit his explanation. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in ***Special Director -vs- Mohammed Ghulum Ghouse*** [(2004) 3 SCC 440], ***Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha*** (AIR 2012 SC 2250) and ***Life Insurance Corporation of India -vs- A.Masilamani*** [(2013) 6 SCC 530] that a show cause notice cannot be challenged before completion of enquiry and the proceedings cannot be interfered with in the interregnum till it reaches its logical conclusion.

3. Learned Counsel for the Petitioner submits that the Petitioner has invoked the discretion of powers of this Court raising certain jurisdictional issues and taking the same into account, this Court had granted interim orders staying further proceedings and extending time for submitting explanation.

4. Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition before the Second Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for this Court to interfere in the matter at this pre-mature stage of the proceedings.

5. It is incumbent upon the Petitioner to submit his explanation with all supporting documents and comply with the requirements as sought in the impugned order by 30.11.2020. The Second Respondent shall, after affording full opportunity of hearing, duly consider the explanation of the Petitioner (including the jurisdictional issues), deal with the each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate decision taken under written acknowledgment. In the event of any decision entailing adverse civil consequences, the Petitioner is not precluded from working out his remedies for necessary relief before the proper forum in the manner recognized by law. Though obvious, it is made clear that no opinion has been expressed by this Court

on the correctness or otherwise on the merits of the factual controversies involved in the matter.

6. In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Note: Issue order copy by 04.11.2020.

To

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