

**W.P. Nos. 5111, 5112 and 9534 of 2014
and
M.P. Nos. 1, 1 and 2 of 2014
(through video conference)**

P.D. AUDIKESAVALU, J.

The matter is listed today under the caption 'for clarification' on receipt of e-mail dated 11.11.2020 from the Learned Counsel for the Petitioner, who has brought to notice that his presence has not been marked in the order dated 08.10.2020.

2. After carrying out rectification of the aforesaid correction, the appearance of the Counsel appearing for the parties in the order dated 08.10.2020 shall read as follows:-

For Petitioner : Mr. N.Muralikumaran
for M/s. Mcgan Law Firm
(in all WPs)

For Respondents : Mrs. Hema Muralikrishnan
Standing Counsel
(for R1 in WP. Nos.5111 and 5112/2014)

V.Sundareswaran,
Standing Counsel
(for R2 in W.P. No. 5111 of 2014,
R2 and R3 in WP. No. 5112 of 2014 and sole
Respondent in W.P. No. 9534/2014)

3. That apart, para 1 of that order shall be substituted as follows:-

“ Heard Mr. N.Muralikumaran, Learned Counsel for the Petitioner, Mrs. Hema Muralikrishnan, Learned Standing Counsel appearing for the First Respondent in W.P. Nos. 5111 and 5112 of 2014 and Mr. V.Sundareswaran, Learned Standing Counsel appearing for the Second Respondent in W.P. No. 5111 of 2014 and Second and Third Respondents in W.P. No. 5112 of 2014 and Respondent in W.P. No. 9534 of 2014 and perused the materials placed on record, apart from the pleadings of the parties.

Registry is directed to issue corrected copy of the order to the concerned parties without collecting any extra charges for the same.

vjt

WEB COPY

11.11.2020

W.P. Nos. 5111, 5112 and 9534 of 2014

P.D. AUDIKESAVALU, J.

vjt



W.P. Nos. 5111, 5112 and 9534 of 2014

WEB COPY

11.11.2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM

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

**W.P. Nos. 5111, 5112 and 9534 of 2014
and
M.P. Nos. 1, 1 and 2 of 2014**

W.P. No. 5111 of 2014:-

Vijay G. Budhrani

... Petitioner

-VS-

1. The Commissioner of Customs (Seaport – Import)
Customs House
No. 60, Rajaji Salai
Chennai - 600 001.

2. The Directorate of Revenue Intelligence
25, Gopalakrishna (Iyer) Road
T.Nagar, Chennai - 600 017.

3. The Branch Manager,
Indian Bank
Chetput Branch
Chennai - 600 010.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the impugned Mahazar dated 15.10.2013 drawn by the official of the Respondent No. 2 in so far as it relates to seizure of cash of Rs. 1.25 Crores and quash the same.

W.P. No. 5112 of 2014:-

M/s.Shahi Foods
Represented by its Partner
Vijay G.Budhrani
No.5H, 5th Floor, Century Plaza
Teynampet, Chennai - 600 018.

... Petitioner

-VS-

1.The Commissioner of Customs (Seaport – Import)
Customs House
No. 60, Rajaji Salai
Chennai - 600 001.

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

3.The Senior Intelligence Officer,
O/o. Directorate-General of Revenue Intelligence
Chennai Zonal Unit
No. 25, Gopalakrishnan Road
T. Nagar, Chennai - 600 017.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to return the amount of Rs. 98,85,110/- collected from the Petitioner-concern vide demand drafts drawn as four part payments in favour of the First Respondent in the following manner:-

- i. D.D. No. 797985 dated 30.10.2013, drawn on YES Bank, Nungambakkam Branch, in favour of the 1st Respondent, for a sum of Rs. 50.00 lakhs,

- ii. D.D. No. 398200 dated 31.10.2013 drawn on RBS Bank, Harrington Road Branch, in favour of the 1st Respondent, for a sum of Rs. 25.00 lakhs,
- iii. D.D. No. 779900 dated 09.11.2013 drawn on YES Bank, Nungambakkam Branch, in favour of the 1st Respondent, for a sum of Rs. 10.00 lakhs, and
- iv. D.D. No. 780371 dated 20.12.2013 drawn on YES Bank, Nungambakkam Branch, Chennai in favour of the 1st Respondent, for a sum of Rs. 13,85,110/-.

W.P. No. 9534 of 2014:-

M/s. Shahi Foods
Represented by its Partner
Vijay G. Budhrani
No. 5H, 5th Floor, Century Plaza
Teynampet, Chennai - 600 018.

... Petitioner

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

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned Show Cause Notice dated 03.03.2014 in F.No. VIII/48/24/2013-DRI of the Respondent and to quash the same.

For Petitioner : Mr. N.Muralikumaran
for M/s. Megan Law Firm
(in all WPs)

For Respondents : Mrs. Hema Muralikrishnan
Standing Counsel
(for R1 in WP. Nos.5111 and 5112/2014)
No Appearance (for R2 and R3)
(in WP. Nos.5111 and 5112/2014)
No Appearance
(for Respondent in W.P.No.9534/2014)

COMMON ORDER
(through video conference)

Heard Mr. N.Muralikumaran, Learned Counsel for the Petitioner and Mrs. Hema Muralikrishnan, Learned Standing Counsel appearing for the First Respondent in W.P. Nos. 5111 and 5112 of 2014, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner in W.P. No. 5111 of 2014, viz., Vijay G.Budhrani, is a partner of M/s. Sahi Foods, which is the Petitioner in W.P. No. 5112 of 2014. The seizure mahazar dated 15.10.2013 is challenged in W.P. No. 5111 of 2014

and in W.P. No. 5112 of 2014, direction has been sought to the Respondent to return the sum of Rs.98,85,110/- collected from the Petitioner through demand drafts. The show cause notice in F.No.VIII/48/24/2013 - DRI dated 03.03.2014 issued by the Respondent calling upon the Petitioner to explain as to why penalty should not be imposed under Sections 112(a) and 114(AA) of the Customs Act, 1962 (hereinafter referred to as 'the Act' for short) is challenged in W.P. No. 9534 of 2014 by that partnership firm.

3. It is brought to notice that after the filing of the Writ Petitions, the Respondent has taken a final decision in the matter and issued the Order-in-Original dated 26.09.2016 against the Petitioners, which has been impeached before this Court in W.P. Nos. 30376 and 30377 of 2016 before this Court, wherein by order dated 14.06.2017 interim stay of those orders had been granted and the matter had been referred to the Division Bench of this Court. In view of the same, Learned Counsel for the Petitioners seeks permission of this Court to withdraw these Writ Petitions, reserving the right of the Petitioners to raise the contentions in W.P. Nos.30376 and 30377 of 2016.

4. Having regard to the submissions made, these Writ Petitions are dismissed as withdrawn with a clarification that it would not preclude the right

of the Petitioner to raise same contentions in W.P. Nos.30376 and 30377 of 2016 before this Court. Consequently, the connected Miscellaneous Petitions are closed. No costs.

08.10.2020

Maya

Index: Yes

Note: Issue order copy by 04.11.2020.

To

- 1.The Commissioner of Customs (Seaport – Import)
Customs House
No. 60, Rajaji Salai
Chennai - 600 001.
- 2.The Directorate of Revenue Intelligence
25, Gopalakrishna (Iyer) Road
T.Nagar, Chennai - 600 017.
- 3.The Branch Manager,
Indian Bank
Chetput Branch
Chennai - 600 010.
- 4.The Additional Director General
Directorate-General of Revenue Intelligence
25, Gopalakrishnan Road
T.Nagar, Chennai - 600 017.
- 5.The Senior Intelligence Officer,
O/o. Directorate-General of Revenue Intelligence
Chennai Zonal Unit
No. 25, Gopalakrishnan Road
T. Nagar, Chennai - 600 017.

W.P. Nos. 5111, 5112 and 9534 of 2014

P.D. AUDIKESAVALU, J.

Maya



W.P. Nos. 5111, 5112 and 9534 of 2014

WEB COPY

Dated : 08.10.2020