

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.21842 of 2014
and
M.P.Nos.1 & 2 of 2014

M/s.Binary Holdings,
Rep. by its Proprietor Mr.K.Srinivas,
No.32/1, Basement, Muniswamappa Layout,
1st Main, Near Shell Petrol Bunk,
Bommanahalli,
Hosur Main Road, Bangalore - 560068. ...Petitioner

Vs

1. The Commissioner of Customs
(Seaport-Imports),
Custom House, No.60, Rajaji Sali,
Chennai - 600001.
2. The Additional Director General,
Directorate of Revenue Intelligence,
Zonal Unit, No.25, Gopalakrishna Road,
T.Nagar, Chennai - 600017.
3. The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Zonal Unit, No.25, Gopalakrishna Road,
T.Nagar, Chennai - 600017. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the Mahazar dated 01.07.2014 drawn at the godown premises by the respondents 2 and 3 and quash the same.

For Petitioner : Mr.A.K.Jayaraj

For Respondents: Mr.A.P.Srinivas, SC
for R1

Mr.Velayutham Pichai, SPC
for R2 and R3

O R D E R

Today, the matter is called through video conferencing. By consent of both the parties, the writ petition is taken up for final disposal.

2. The petitioner herein is aggrieved against the Mahazar dated 01.07.2014, whereby certain goods relating to parts of sewing machine were seized.

3. Pending the writ petition, this Court, by an order dated 21.08.2014, had directed for removal of the lock and seal and release of the goods, on condition that the petitioner pays a sum of Rs.2 lakhs and also furnishing a bank guarantee to the extent of Rs.1.80 lakhs.

4. The learned counsel for the petitioner would submit that he had already complied with the interim order passed by this Court on 21.08.2014 and the goods were also released. It is his further submission that pending the writ petition, the second respondent herein had issued a show cause notice on 27.10.2017 demanding the differential duty, to which the petitioner has given his reply on 15.12.2017, which was also received by them on 21.12.2017. According to the learned counsel for the petitioner, there were no further proceedings after the receipt of the reply.

5. The learned Standing Counsel appearing for the first respondent would submit that the writ petition challenging the Mahazar is not maintainable and therefore seeks for dismissal of the writ petition.

6. The issue as to whether the writ petition could be maintained or not does not require consideration at this stage, since the respondents have chosen to proceed with the demand of the differential duty and the second respondent had also issued a show cause notice in this regard on 27.10.2017, to which the petitioner claims to have given his reply on 15.12.2017. In my view, if the respondents are directed to further adjudicate on this issue, the ends of justice could be secured.

7. As such, without going into the question as to whether the writ petition could be maintained, there shall be a direction to the Joint/Additional Commissioner of Customs, Commissionerate, Chennai - 600002, to consider the petitioner's reply dated 15.12.2017, pursuant to the show cause notice dated 27.10.2017 and take further course of proceedings in accordance

with law, after giving due opportunity to the petitioner. Such a consideration shall be completed atleast within a period of 12 weeks from the date of receipt of a copy of this order. If necessary, a personal hearing could also be extended through video conferencing.

8. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Commissioner of Customs
(Seaport-Imports),
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4. The Joint/Additional Commissioner of Customs,
Commissionerate, Chennai - 600002.

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RLD(CO)
CB(01/10/2020)

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