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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(CRL) 1293/2020

GIRISH VIJAY DHINGRA THROUGH PAROKAR
SHRI VIJAY HINGRA ..... Petitioner

Through: Dr G. K. Sarkar, Advocate.

versus

CENTRAL BOARD OF INDIRECT TAXES AND
CUSTOMS THROUGH CHAIRPERSON & ORS. ..... Respondents

Through: Mr Harpreet Singh, Sr. Standing Counsel Customs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **02.09.2020**

[Hearing held through video conferencing]

1. The petitioner has filed the present petition, *inter alia,* impugning the arrest memo dated 17.08.2020. The petitioner also seeks further directions that the petitioner be released forthwith.

2. The petitioner was arrested pursuant to the impugned arrest memo dated 17.08.2020. The arrest memo indicates the reasons for his arrest. It is alleged in the said memo that the petitioner had imported goods including the current consignment (Bill of entry no. 6404529 dated 09.01.2020) of an aggregate value of ₹7,40,39,051/- involving customs duty for ₹1,33,27,031/. It is further mentioned that the petitioner's statement under Section 108 of the Customs Act, 1962 was recorded and the test reports of the goods imported by the petitioner were old and used goods. It is alleged that the

same constitutes an offence under Sections 135(i)(a), 135(1)(b), 135(1)(i)(A) and 135(1)(i)(C) of the Customs Act, 1962.

3. The allegation against the petitioner is that he had imported hard disks from overseas declaring them to be new but the test reports indicate that the said goods are used goods.

4. Mr Singh concedes that the allegation that any customs duty is involved is erroneous as that is not the issue in this case. He further submitted that the concerned authority has reasons to believe that the goods imported are liable for confiscation under Sections 111(d), 111(f) and 111(m) of the Customs Act, 1962 as the said goods have been found to be used and refurbished. He also contends that the importing of the said goods amounts to misdeclaration and violation of the Customs Act, 1962.

5. He also submitted that pursuant to the impugned arrest memo the petitioner was arrested. Thereafter, a transit remand was taken and the petitioner was produced before the learned CMM, Mumbai. The learned CMM has passed an order remanding the petitioner to judicial custody. He submitted that in the given facts the courts at Mumbai would be the appropriate courts to consider any relief.

6. Mr Sarkar, learned counsel appearing for the petitioner countered the aforesaid submissions and submitted that since the petitioner was arrested in Delhi, this Court would have the jurisdiction to entertain the present petition. He referred to the decision of the Division Bench of this Court in ***Rajbhushan Omprakash Dixit v. Union of India: 2019 (361) ELT 1007 (DEL)*** in support of his contention.

7. Considering that the custom authorities have commenced proceedings against the petitioner in Mumbai and an order remanding the petitioner to

custody has been passed by the learned CMM, Mumbai, this Court is of the view that even assuming that this court has jurisdction to entertain the present petition, it would not be apposite to do so. The petiton is, accordingly, disposed of leaving it open for the petitioner to avail of remedies before the concerned courts at Mumbai. All rights and contentions of the petitioner are reserved.

8. At this stage, learned counsel appearing for the petitioner submits that he would be filing an application for bail before the concerned court. Needless to state that if such an application is filed, the same would be considered as expeditiously as possible.

VIBHU BAKHRU, J

SEPTEMBER 2, 2020
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