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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No. 28121 of 2008

M. Sathyaraj

...Petitioner

Vs.

1.Union of India

Rep. by Under Secretary to
Government of India
Ministry of Finance
Department of Revenue,
New Delhi.

2.The Commissioner of Central Excise,
6/7, A.T.D. Street,
Race Course Road,
Coimbatore - 641 018.

3.The Reserve Bank of India
rep. by Governor,
Mumbai

4.The C.B.I.,
rep. by Deputy Superintendent of Police,
CBI/ACB
Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus directing the 4th respondent to provide shipping bills pertaining to the charge sheet bearing No. 2/2007/CBI framed against the petitioner pending before the Special Judge, CBI Court Coimbatore in respect of the allaged violation of conditons in discharge of his duties in respect of the service of the petitioner as Superintendent/Appraiser at ICD, Tirpur to the 2nd respondent in order to initiate recovery proceedings at the original jurisdiction vested in it to recover the money from the fraudulent exporters for failure to repartite the sale proceeds of exported goods under Section 16A of Drawback Rules r/w Section 142 of Customs Act 1962.



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For Petitioner : Mr. A. Mohammed Ismail
For Respondents : Mr. K. Srinivasan [R4]
Special Government Pleader
No Appearance [R1 to R3]

ORDER

This matter had come upon 02.09.2021, when the following order was passed:

Delete the name and description of R4, since learned counsel has entered appearance. Mr. Ismail, learned counsel states that he has entered appearance in the matter for the petitioner on change of vakalat and seeks a short date to acclimatize himself with the matter.

2. Even today, there is no appearance for R1 to R3, though the name of Mr. P. Mahaadevan, learned counsel for R1 and R2 and the description of R3/Reserve Bank of India is printed in the cause list.

3. The petitioner, who is the third accused in a criminal case in C.C.No.5 of 2007 pending on the file of the Special Court for CBI cases, Coimbatore relating to the alleged fraudulent claims of duty drawback, has sought a limited prayer of mandamus directing the 4th respondent, i.e., C.B.I, represented by Mr. Srinivasan, to provide copies of the shipping bills pertaining to charge sheet No.2/2007/CBI framed against the petitioner and pending before the Special Judge, CBI Court, Coimbatore.

4. The purpose for which the copies are sought is purportedly to enable him to initiate recovery proceedings to recover the money from the fraudulent exporters. This prayer has worked itself out in more ways than one. The purpose for which the copies of the shipping bills are sought is to enable the petitioner, who was at the time of filing of the Writ Petition, an Assistant Commissioner working in the Directorate of Valuation, Zonal Unit, Chennai, to initiate recovery proceedings. We are today in 2021 and the period of service of the petitioner is long gone. Hence the question of the petitioner being in a position to



initiate recovery proceedings does not arise any more. This is one ground.

5. Secondly, though the petitioner has in the prayer sought to refer only to the charge sheet, the matter has, in fact, pending in a criminal case before the Special Court, CBI cases, Coimbatore and thus it may be appropriate for the petitioner to approach the concerned Court by way of an application, remit necessary charges and follow all procedural formalities and seek copies before the concerned Court.

6. Thirdly, learned counsel for the CBI would state that the shipping bills have, in fact, been marked as exhibits in CC itself, in which case, copies must have already been supplied to the petitioner.

7. On account of these grounds, I do not see anything that survives in this matter. In any event, to enable Mr. Ismail to apprise himself of the present position, list on 03.09.2021 within first five matters.

2. Today Mr. A. Mohammad Ismail, learned counsel for the petitioner would only reiterate the prayer to the effect that a direction be issued to the CBI to hand over the relevant shipping bills to the 2nd respondent in order to enable him to initiate proceedings.

3. The mandamus sought is not liable to be granted as it is too wide a prayer to be countenanced by the Court. The matter is pending resolution before the Special Court and it is for the petitioner to put forth his case there and pursue the same.

4. This writ petition is dismissed. Connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

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1. The Under Secretary to
Union of India
Government of India
Ministry of Finance
Department of Revenue,
New Delhi.

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