



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.3502 of 2021

Ahamed Kuthoos

...Petitioner

-Vs-

1.The Commissioner of Customs

Customs Airport Authority, Airport,
Madurai.

2.The Assistant Commissioner of Customs

Customs Airport Authority, Airport,
Madurai.

3.The Air Customs Superintendent,

Madurai International Airport.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondents to consider the petitioner's representation dated 26.12.2020 to re-export the detained goods pertaining to the D.R.No.127/23/09/2020 (D)/BATCH A/aco3, dated 23.09.2020.

For Petitioner :Mr.G.V.Vairam Santhosh

For Respondents :Mr.B.Vijay Karthikeyan

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

2.The petitioner is an Indian National and Resident of UAE since 2000. He landed in India on 23.09.2020 at Madurai Airport. The petitioner was carrying with him four mobile phones. They were detained by the customs authority on the ground that the import of mobile phones is in excess of permissible limit. Thereupon, the petitioner made a request vide representation dated 26.12.2020 for re-export. Since it was not considered, the present writ petition came to be filed for directing the first respondent to pass orders on his representation for re-export of the detained goods.

3.The petitioner's request is strongly opposed by the respondents. The learned Standing Counsel took me through the averments set out in the counter affidavit.

4.I carefully considered the rival contentions and went through the materials on record.



5.The relevant provision for re-export is Section 80 of Customs Act, 1962 which reads as follows:-

80.Temporary detention of baggage:- Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under Section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India.

Section 77 of the Act reads as follows:-

77.Declaration by owner of baggage:- The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

6.In the case on hand, the specific objection of the learned standing counsel is that the petitioner, having failed to make a declaration under Section 77 of the Customs Act, 1962 and having been intercepted when he was passing through the green channel, cannot maintain the writ petition. In this regard, he would place reliance on the decisions reported in 1981 (8) E.L.T.153 (Mad.) (K.R.Ahmed Shal Vs. Additional Collector of Customs, Madras), 2017 (348) E.L.T.671 (Mad.) (Ramasamy Vs. Joint Secretary to Government of India) and 2009 (241) E.L.T.521(Del.) (Jasvir Kaur Vs. Union of India).

7.I wanted to know from the petitioner's counsel as to whether a specific averment has been taken either in the representation or in the affidavit filed in support of the writ petition that immediately on landing, the petitioner did make a declaration under Section 77 of the Act. The learned counsel for the petitioner is unable to draw my attention to any such averment either in the representation or in the affidavit filed in support of the writ petition.

8.Therefore, I am not in a position to grant the relief as sought for. Unless the person has legal right to seek consideration of one's representation, he cannot maintain a writ of mandamus. I find no ground to grant relief. The Writ Petition stands dismissed. However, the jurisdictional adjudicating authority is directed to conclude the adjudication proceedings on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. I make it clear that the adjudicating proceedings will not in any way be affected by the dismissal of this writ petition. No costs.

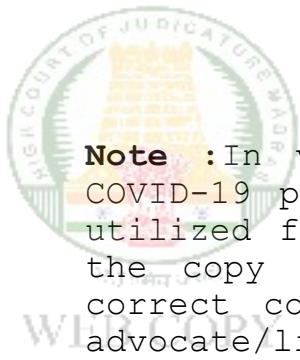
Sd/-

Assistant Registrar (CSI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO:

- 1.The Commissioner of Customs
Customs Airport Authority, Airport,
Madurai.
 - 2.The Assistant Commissioner of Customs
Customs Airport Authority, Airport,
Madurai.
 - 3.The Air Customs Superintendent,
Madurai International Airport.
- +1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-
12744[F] dated 22/03/2021)

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