



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 2093 of 2019 and

W.M.P. (MD) No. 1684 of 2019

Mohamed Siddiq Rahman

... Petitioner

Vs.

1. The Joint Commissioner of Customs
(Preventive),

O/o. Commissioner of Customs (Preventive),
Government of India, Ministry of Finance,
Department of Revenue,
No.1, Williams Road,
Cantonment, Trichy - 620 001.

2. The Addl. Director,

Directorate of Revenue Intelligence,
Ministry of Finance,
Department of Revenue,
No.27, Adarsh Towers, G.N.Chetty Road,
T.Nagar, Chennai - 17.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent made in Order-In-Original No.C.No.VIII/10/150/2018 in Order-In-Original No.TCP-Cus./PRV/JTC/129-18 dated 27.11.2018 quash the same and direct the said respondent to conduct adjudication proceedings afresh after affording the petitioner the opportunity to cross-examine the named persons under reply dated 09.10.2018 and reiterated in the hearing before the said respondent on 16.10.2018.

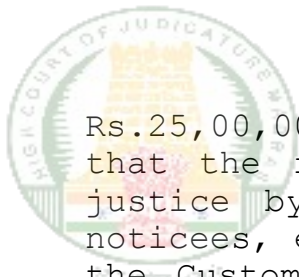
For Petitioner : Mr.S.Kameswaran

For Respondents : Mr.B.Vijay Karthikeyan

O R D E R

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

2. The petitioner challenges the impugned order dated 27.11.2018 whereby the first respondent had ordered confiscation of gold bars and also levied penalty on the petitioner to the tune of



Rs.25,00,000/-. The primary ground taken in the writ petition is that the first respondent has violated the principles of natural justice by not permitting the noticee to cross examine the co-noticees, even though their statements recorded under Section 108 of the Customs Act were relied upon. I had already held in W.P.(MD) No.863 of 2018 dated 27.02.2018 (S.Rajendran V. The Joint Commissioner of Customs(Preventive) and two others), that such a right is not available. The said order was also confirmed by the Hon'ble Division Bench vide order dated 30.01.2019 in W.A.(MD) No.1469 of 2018.

3. Therefore, this Writ petition is liable to be rejected. However, I must note that the petitioner has not gone into the merits of the matter. Since the impugned order is appealable, I permit the petitioner to file an appeal before the appellate authority. If the statutory appeal is filed within a period of six weeks from the date of receipt of a copy of this order, the appellate authority will entertain the same without reference to limitation. All the other contentions, except the contention regarding the denial of the right to cross examine the co-noticees, will be available to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// 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 Joint Commissioner of Customs
(Preventive),
O/o.Commissioner of Customs(Preventive),
Government of India, Ministry of Finance,
Department of Revenue,
No.1, Williams Road,
Cantonment, Trichy - 620 001.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Addl. Director,
Directorate of Revenue Intelligence,
Ministry of Finance,
Department of Revenue,
No.27, Adarsh Towers, G.N.Chetty Road,
T.Nagar, Chennai - 17.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-12206[F] dated
18/03/2021)

W.P. (MD)No.2093 of 2019

18.03.2021

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CN(06.05.2021) 3P 4C