



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.[MD]No.16705 of 2021

and

W.M.P.[MD]Nos.13602, 13604 & 13605 of 2021

WEB COPY

Aji Kumar

... Petitioner

Vs.

1.The Commissioner of Customs,
Customs House,
New Harbour Estate,
Tuticorin.

2.The Assistant Commissioner of Customs,
Customs House,
New Harbour Estate,
Tuticorin.

3.The Branch Manager,
South Indian Bank,
Omallloor Branch,
Pathanamthitta,
Kerala.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in C.No.VIII/48/496/2021.ARC dated 03.03.2021 and further impugned order for recovery of interest for drawback amount in OIO 630/2020 dated 23.08.2021 in pursuant to the OIO 630/2020 dated 23.08.2021, passed by the second respondent herein and quash the same as illegal and consequently direct the respondents 1 and 2 to repay the amount of Rs.83,169/- recovered from the Petitioner's Account No.0387073000000109 in the third respondent bank and also to defreeze the above said account.

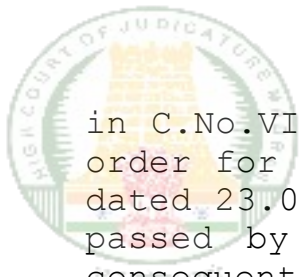
For Petitioner : Mr.A.Mithun Chakravarthi

For Respondents 1&2 : Mr.B.Vijay Karthikeyan
Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order

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in C.No.VIII/48/496/2021.ARC dated 03.03.2021 and further impugned order for recovery of interest for drawback amount in OIO 630/2020 dated 23.08.2021 in pursuant to the OIO 630/2020 dated 23.08.2021, passed by the second respondent herein and quash the same and consequently direct the respondents 1 and 2 to repay the amount of Rs.83,169/- recovered from the Petitioner's Account No.0387073000000109 in the third respondent bank and also to defreeze the above said account.

2. The impugned orders in this writ petition are pursuant to the order-in-original passed by the respondent / Customs dated 24.08.2020. However, it is a definite stand of the petitioner that, no such order has been served on him and before which, no such proceedings or summons have been issued.

3. However, learned Standing Counsel for the respondent / Customs, on instructions would contend that, a show cause notice was issued to the petitioner on 18.07.2018, followed by summons for personal hearing dated 16.06.2020, 30.07.2020 and 19.08.2020. None of these notices for personal hearing have been responded by the petitioner and thereafter, the respondent / Customs proceeded to pass the order-in-original dated 24.08.2020. Therefore, the present impugned orders are consequential orders issued pursuant to the order dated 24.08.2020.

4. Therefore, the petitioner, without challenging the order-in-original, cannot challenge the consequential orders. However, the learned Counsel for the petitioner stick on to his stand that none of these proceedings or orders as referred to by the Customs have ever been served on the petitioner.

5. Be that as it may, an order dated 24.08.2020, seems to have been passed against the petitioner, which is starring at the petitioner and the same has to be challenged in the manner known to law. In order to enable the petitioner to challenge those orders, this Court feels that those orders along with the connected materials shall be furnished to the learned Counsel for the petitioner and on receipt of the same, it is open to the petitioner to challenge those orders. After challenging the main orders, depending upon the challenge, the present challenge made with regard to the consequential orders shall be maintained. Therefore, this Court feels that this writ petition can be disposed of with the following direction:

"the respondent / Customs is directed to furnish the copies of the show cause notice dated 18.07.2018 and three summons dated 16.06.2020, 30.07.2020 and 19.08.2020 and also the order-in-original to the petitioner through the learned Counsel for the



same, it is open to the petitioner to challenge the said order, if he is advised to do so. Depending upon the outcome of the challenge against the order dated 24.08.2020, the present impugned orders can also be put under challenge."

WEB COPY

6. With these directions, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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 House,
New Harbour Estate,
Tuticorin.

2.The Assistant Commissioner of Customs,
Customs House,
New Harbour Estate,
Tuticorin.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-30242[F] dated 24/09/2021)

W.P.[MD]No.16705 of 2021

24.09.2021

PS (CO)

SB(21.10.2021) 3P 4C