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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.419 OF 2022

AND

W.M.P.NO.476 OF 2022

(THROUGH VIDEO CONFERENCING)

Nipun Miglani

... Petitioner

Vs.

1. The Additional Director General,
Directorate of Revenue Intelligence,
13, Sir Vitthaladas Thackersay Marg,
Opposite to Patkar Hall, New Marine Lines,
Mumbai - 400 020.
2. The Intelligence Officer,
Directorate of Revenue Intelligence,
Nhava Sheva-II, Mumbai Zonal Unit,
208, 209, 215, 2nd Floor, D-Wing,
Navi Mumbai, SEZ Commercial Complex,
Sector 11, Dronagiri,
Raigad - 400 702.
3. The Manager,
HDFC Bank Limited,
KB Dasan Road Branch,
Plot No.2/3, Ground Floor,
KB Dasan Road, Chennai - 600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Declaration, declaring the attachment of the petitioner's bank account number 2461100000078 maintained with HDFC Bank, K.B.Dasan Road Branch, Chennai by the first and second respondents as illegal and without authority of law.



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For Petitioner : Mr.Hari Radhakrishnan
For Respondents :
For R1 & R2 : Mr.V.Sundareswaran
Senior Standing Counsel

ORDER

Mr.V.Sundareswaran, learned Senior Standing Counsel takes notice on behalf of the first and second respondents.

2. After hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the first and second respondents, this Writ Petition is disposed at the time of admission considering the fact that the petitioner's representation dated 22.10.2021 followed by a legal notice dated 20.12.2021 was not answered by the first respondent herein.

3. It is the specific case of the petitioner that the respondents have wrongly attached the bank accounts of the petitioner before the Jurisdiction of this Court contrary to Section 110(5) of the Customs Act, 1962 inserted with effect from 01.10.2019.

4. The learned counsel for the petitioner submits that the respondents are not authorized to attach the bank accounts of the petitioner as the respondents are not proper officers within the meaning of Section 234 of the Customs Act and the issue stands squarely covered by the decision of the Hon'ble Supreme Court in Canon India Private Limited Vs Commissioner of Customs, 2021 (376) E.L.T.3 (S.C.).

5. Opposing the prayer, learned Senior Standing Counsel for the first and second respondents submits that the order in Canon India Private Limited case is subject matter of the Revenue before the Hon'ble Supreme Court and therefore it cannot be said that the issue has attained finality and therefore the respondents are proper officers for the purpose of investigating and passing appropriate orders under the provisions of the Customs Act, 1962.

6. By way of rejoinder, learned counsel for the petitioner would however submits that for exercising power under Section 110(5) of the Customs Act, an order has to be passed bypassing the procedure under Section 110 of the Customs Act, the impugned bank attachments has been made.



7. Though the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the first and second respondents appeared equally meritorious, it is noticed that the petitioner's representation dated 22.10.2021 and the legal notice dated 20.12.2021 has not been received adequate attention.

8. It is not clear whether the bank accounts of the petitioner has been attached at the behest of the first and second respondents or by the jurisdictional officers of the customs.

9. Considering the same, I am inclined to dispose this writ petition by directing the first respondent to give proper reply/pass appropriate orders on the representation dated 22.10.2021 and legal notice dated 20.12.2021 of the petitioner within a period of fifteen days from the date of receipt of a copy of this order.

10. Liberty is given to the petitioner to make additional submissions/representations before the first respondent, if any.

11. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

arb/rgm

To

1. The Additional Director General,
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13, Sir Vitthaladas Thackersay Marg,
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3. The Manager,
HDFC Bank Limited,
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+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.2526

W.P.No.419 of 2022
and
W.M.P.No.476 of 2022

RSV(CO)
RLP(28/01/2022)