



W.P.No.11529 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

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THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.No.11529 of 2022

and

W.M.P.No.11009 of 2022

H.Ravichandran
Authorized Signatory of Dharshini Exports,
No.70, Solaiyappan Street,
Thanjavur District,
Kumbakonam - 612 001.

... Petitioner

Vs

1.The Senior Intelligence Officer of Customs (ACIU),
At New Custom House,
Room No.218, ACIU Unit,
O/o.The Principal Commissioner of Customs,
(AIR Cargo, Chennai VII Commissionerate)
Meenambakkam, Chennai - 600 016.

2.The Superintending Archaeologist,
Archaeological Survey of India,
Chennai Circle, Fort St.George,
Chennai - 600 009.

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in pursuance to the impugned summons dated 06.04.2022 issued by the 1st respondent to the petitioner on the basis of the suspicion of the export article to be antique and thereby quash the same and consequently further direct the 2nd respondent to issue a final report on the nature of the export consignment article under Shipping Bill No.8357582 dated 19.02.2022 issued by the 1st respondent.

For Petitioner : Mr.M.Shuaib Ahmed
for Mr.A.Abdul Mubeen

For Respondents : Mr.Rajnish Pathiyil
Senior Panel Counsel
for R1
Mr.R.Rajesh Vivekananthan
Additional Solicitor General
for R2

ORDER

The petitioner has challenged the impugned summons dated 06.04.2022 issued to the petitioner under Section 108 of the Customs Act, 1962. It is submitted that the impugned summons has been issued to the petitioner on mere suspicion and without any concrete evidence or



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materials on record to summon the petitioner. Hence, it is submitted that summon is liable to be quashed.

2. That apart, it is submitted that the petitioner is a bonafide exporter of Devotional Hindu Pooja Articles to many temples situated abroad. It is submitted that one Mr.Sundaravaradan had approached the petitioner for export of certain pooja articles for his brother Mr.Mukundan, a priest in the U.S.A and had requested the petitioner to facilitate export. It is submitted that the said Mr.Sundaravaradan purchased few pooja articles like Brass Sivalingam and Nagaparanam etc., during the month of January 2022 for being sent to his brother Mr.Mukundan in t6he U.S.A.

3. It is the specific case of the petitioner that after checking the bills and after due confirmation that the products are manufactured and do not have any importance to Antiquity, the petitioner obtained the bills for the said products and then duly exported the same through air. It is therefore submitted that impugned summons based on mere suspicion is liable to be quashed.



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4. On the other hand, the learned counsel for the respondents would submitted that writ petition has become infructuous, as the Show Cause Notice No.64/03.04.2023 in F.No.DIN 2023047MU0000009E4B has been issued on 01.04.2023, wherein, the petitioner along with the three other persons have been called upon to show cause as to why:

(i)The seized goods, i.e, one number of Shivalingam statue with Nagaparanam certified to the suspected to be antique by the expert Committee of ASI, Chennai which was attempted to be exported out of India through mis-declaration to Customs should not be confiscated under Section 113(d), (h) and (i) of the Customs Act, 1962 read with Section 3(3) of Foreign Trade (Development and Regulations) Act, 1992, and the Antiquities and Art Treasurers Act, 1972.

(ii)The remaining cargo under the Shipping Bill No.8357582/19.02.2022 which was used for concealment of the one number of Shivalingam statue with Nagaparanam should not be confiscated under Section 119 of the Customs Act, 1962.

(iii)Penalty should not be imposed on them under Section 114/114AA of the Customs Act, 1962.



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5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Panel Counsel for the first respondent and learned Additional Solicitor General for the second respondent.

6. There is no merits in the challenge to the impugned summons calling upon the petitioner to come for an enquiry on 06.04.2022. It appears that statements have also been recorded from the petitioner during the course of investigation which has culminated in the issue to above mentioned Show Cause Notice. Therefore, nothing further survives for further adjudication in this writ petition.

7. The petitioner has to only file a reply to the Show Cause Notice. The prayer for dropping of the proceedings initiated in the above Show Cause Notice cannot be countenanced. The respondents are therefore directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order.



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8. This writ petition stands dismissed with the above observation.

No costs. Consequently, connected writ miscellaneous petition is closed.

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Index: Yes/ No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
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To

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O/o.The Principal Commissioner of Customs,
(AIR Cargo, Chennai VII Commissionerate)
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