



WEB COPY



W.P.No.17079 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.06.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.17079 of 2023
and WMP No.16252 of 2023

Mohammed Ali Jinnah

... Petitioner

Vs

The Principal Commissioner of Customs (Preventive),
Chennai III Commissionerate
Customs House, No.60, Rajaji Salai
Chennai – 600 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the Respondent herein to implement the Order of Commissioner of Customs (Appeal)II, Chennai in Order in Appeal Seaport-C.Cus.II No.550/2019 dated 14.11.2019 directing the Respondent to release the two crude gold bars seized from the petitioner herein.

For Petitioner : Mr.T.Sudhan Raj

For Respondent : Mr.V.Sundareswaran
Senior Panel Counsel

ORDER

Mr.V.Sundareswaran, learned Senior Panel Counsel accepts notice for the respondent and is armed with instructions to enable a final disposal of this matter, even at the stage of admission.



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2. The prayer is for a mandamus to direct the Respondent herein to implement the Order of Commissioner of Customs (Appeal) II, Chennai in Order in Appeal Seaport-C.Cus.II No.550/2019 dated 14.11.2019 and to release the two crude gold bars seized from the petitioner.

3. The petitioner had suffered an order-in-original dated 10.09.2018 passed under the provisions of the Customs Act, 1962 (in short 'Act') confirming the proposals in the show cause notice for confiscation of 3097 gms of foreign origin gold bars under Section 111(a), 111 (d) and 111(i) of the Act as well as penalty. The order was challenged and the petitioner succeeded concurrently before the first and second appellate authorities.

4. The order of the Customs, Excise and Service Tax Appellate Tribunal (in short 'Tribunal') is dated 20.04.2023 and assuming that the same was received by the Jurisdictional Assessing Officer (JAO) sometime in May, 2023, the time available for filing of a Civil Miscellaneous Appeal would be 180 days therefrom, which means, that the assessee will effectively have to wait till November, 2023 to ascertain whether order dated 20.04.2023 has attained finality or not.

5. Thus, no mandamus directing respondent to implement order dated 14.11.2019 passed by the first appellate authority can be issued now. Instead, what the Court can consider and in fact does direct, is that the sole respondent,



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Principal Commissioner of Customs (Preventive), consider the representation of the petitioner dated 30.04.2023 seeking furnishing of security in lieu of the gold bars.

6. Mr.Sundareswaran, would accede to the position that the aforesaid representation has, indeed, been received by the respondent and the same is pending.

7. To enable disposal of the same, the petitioner will appear before the respondent on 19.06.2023 at 10.30 a.m. along with all materials in support of his contention without expecting any further notice in this regard. After hearing the petitioner, the respondent shall dispose representation dated 30.04.2023 within a period of two (2) weeks from date of personal hearing, in accordance with law.

8. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petition is closed.

13.06.2023

Index : Yes / No

Speaking/non-speaking Order

Neutral citation:Yes/No

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Note: Registry is directed to issue this order on or before 14.06.2023.



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To

The Principal Commissioner of Customs (Preventive),
Chennai III Commissionerate
Customs House,
No.60, Rajaji Salai
Chennai – 600 001.



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Dr.ANITA SUMANTH,J.

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