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W.M.P.No.22740 of 2023

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in

W.P.No.11434 of 2023

C.SARAVANAN, J.

The petitioners, who are the respondents in W.P.No.11434 of 2023 have filed this miscellaneous petition for extension of time for issuance of Show Cause Notice.

2. The respondent herein (the petitioner in W.P.No.11434 of 2023) had filed the above writ petition for the following relief:-

"Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, to direct the first respondent to release the Bank Guarantee furnished by the petitioner on 03.01.2022 to the total value of Rs.78,34,000-00 for the purpose of Provisional Release of the imported goods covered under the respective Bills of Entry, B.E.No.48877256 dated 31.07.2021; 4927400 dated 04.08.2021 and 5435468 dated 14.09.2021."

3. By an order dated 13.04.2023, this Court had disposed the writ petition with the following observations:-

"3. When the matter is taken up, learned counsel appearing for the 1st respondent submits that the proceedings



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with regard to seizure of the goods from the petitioner will be concluded on or before July 2023.

4. Recording the same, this Court without going into the merits of the issue directs the 1st respondent to conclude the proceedings and pass appropriate orders on or before July 2023. If the petitioner has any grievance with regard to the aforesaid order of the 1st respondent, it is open for the petitioner to approach this Court."

4. The learned counsel for the respondent/writ petitioner would submit that in terms of Sub-Section 2 to Section 110 of the Customs Act, 1962, a Show Cause Notice has to be issued within a period of six months from the date of seizure, whereas, search had taken place on 05.08.2021, 06.08.2021, 10.08.2021 and 11.08.2021.

5. The learned counsel for the petitioners/respondents on the other hand would submit that the above restrictions/terms will not apply in view of the second proviso to Sub-Section 2 to Section 110 of the Customs Act, 1962.

6. A reading of the above second proviso makes it clear that where any order for provisional release of the seized goods has been passed under



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Section 110A of the Customs Act, 1962, specified period of six months shall not apply.

7. Therefore, I am of the view, although this Court directed the petitioners herein to issue Show Cause Notice on or before July 2023, the time sought for extension of issuance of Show Cause Notice can be given.

8. Therefore, time is extended up to 03.02.2024 as prayed for. This Writ Miscellaneous Petition is ordered.

25.08.2023

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