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W.P.No.6115 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.6115 of 2022

Mr.R.Kumaresan

... Petitioner

Vs.

1. The Directorate of Revenue Intelligence,
Chennai Zonal Unit,
G.N.Chetty Road,
T.Nagar,
Chennai – 600 017.

2. The Commissioner of Customs (Preventive),
No.1, Williams Road, Cantonment,
Trichy – 620 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus to direct the Respondent No.1 to return the seized birds and animals to the Petitioner for safe keeping and proper maintenance, pending disposal of the finality of the proceedings commencing from the issuance of show cause notice and establishment of the innocence of the Petitioner before the Customs Excise and Service Tax Appellate Tribunal (CESTAT), South zonal Bench, Chennai.



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For Petitioner : Mr.S.R.Raja Gopal
learned Senior Counsel

For Respondents :
For R1 : Mr.V.Murali
For R2 : No Appearance

ORDER

This Writ Petition has been filed for a Mandamus to direct the Respondent No.1 to return the seized birds and animals to the Petitioner for safe keeping and proper maintenance, pending disposal of the finality of the proceedings commencing from the issuance of show cause notice and establishment of the innocence of the Petitioner before the Customs Excise and Service Tax Appellate Tribunal (CESTAT), South zonal Bench, Chennai.

2. During the pendency of the Writ Petition, the Petitioner had filed a Statutory Appeal against Order in Original No. TCP - CUS - PRV - JTC – 77/2019 dated 10.12.2019 passed by the Joint Commissioner of Customs (Preventive), Trichy.



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3. Aggrieved by the aforesaid Order, the Petitioner had filed appeal in A.No.C24/46/2023 – TRY (CUS) - APP before the Commissioner of GST and Central Excise (Appeals), Coimbatore who by an Order dated 24.06.2024 in Order in Appeal No.15/2024-TRY(CUS)-APP has allowed the appeal of the Petitioner with the following observations:-

- i. *I set aside the confiscation of the seized 71 nos. of exotic birds and animals valued at Rs.1,10,52,000/- under Section 111(d), 111(f) and 111(i) of the Customs Act, 1962 made in the Order-in-Original No.TCP-CUS-PRV-JTC-77/2019 dated 10.12.2019 passed by the Joint Commissioner of Customs (Preventive), Trichy.*
- ii. *I set aside the confiscation of the amount of Rs.1,02,51,253/- in total seized from the residence of the appellant and lying in the three bank accounts under Section 121 of the Customs Act, 1962 made in the impugned Order in Original and I order for release of the amount to the appellant.*
- iii. *I set aside the confiscation of the vehicles viz. one Mercedes Benz Car 200 bearing Registration No.TN07BQ0777 valued at Rs.7,00,000/- and one Toyota Innova bearing Registration No.TN06B6188 valued at Rs.4,50,000/- under Section 115(2) of the Customs Act, 1962 made in the impugned Order in Original. I order release of the vehicles to the appellant.*
- iv. *I set aside the penalty of Rs.20,00,000/- imposed under Section 112(a), 112(b) and the penalty of Rs.10,00,000/- imposed under Section 114AA of*



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the Customs Act, 1962 in the impugned Order in Original on the appellant.
v. *The Appeal A.No.C24/46/2023-TRY(CUS)-APP filed by Shri.R.Kumaresan @ Mukesh is allowed with consequential benefits.*

4. It appears that no further appeal has been filed against the aforesaid Order as on date. Under these circumstances, the 1st Respondent is duty bound to comply with the Order of the Appellate Commissioner viz., Commissioner of GST and Central Excise (Appeals), Coimbatore in Order in Appeal No.15/2024-TRY(CUS)-APP dated 24.06.2024 as expeditiously as possible without any further delay.

5. Writ Petition stands disposed of with the above observations and directions. No cost.

23.08.2024

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



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To

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C.SARAVANAN, J.



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