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W.P. No.11330 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**W.P. No.11330 of 2021
and
W.M.P.No.11974 of 2021**

Nadeem Gubitra

... Petitioner

Vs.

1. The Commissioner of Customs,
Chennai II Commissionerate,
No.60, Rajaji Salai, Custom House,
Chennai - 01.

2. The Additional Director General of DRI,
Ahmedabad Zonal Unit,
15, Magnet Corporate Park,
Off. S.G. Highway, Near Sola Over Bridge,
Thaltej, Ahmedabad - 380 054.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records connected with show cause notice F.No.DRI/AZU/INV-63/2009 dated 25.01.2011 issued by the second respondent herein and to quash the same for want of jurisdiction under Section 28 of the Customs Act and also for not having been adjudicated within the reasonable time of five years in terms of the unamended provisions of Section 28 (9) of the Customs Act.

For Petitioner : Mr. N. Viswanathan



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W.P. No.11330 of 2011



For Respondents : Mr. Sai Srujan Tayi
Senior Standing Counsel

ORDER

This writ petition has been filed, challenging the impugned show cause notice dated 25.01.2011. The show cause notice has been challenged on the following grounds:

a) The impugned show cause notice is dated 25.01.2011. Despite the petitioner having sent a reply in the year 2015, till today, no final orders have been passed. Therefore, according to the petitioner, on the ground of inordinate delay in passing the final adjudication order, the impugned show cause notice has to be quashed;

b) The impugned show cause notice has been issued by the second respondent which lacks jurisdiction as per the provisions of Section 28 of the Customs Act to issue the said show cause notice.

2. In so far as the second ground raised by the learned counsel for the petitioner is concerned, the learned counsel for the petitioner is not insisting the said ground since the law is now well settled that the second respondent is also a competent authority to issue show cause notice under Section 28 of the Customs Act. Therefore, the only ground raised by the petitioner in this



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writ petition is that the impugned show cause notice is dated 25.01.2011 but, despite the same, till date, no final adjudicating order has been passed and so on the ground of inordinate delay in passing the same, the impugned show cause notice has to be quashed.

3. Counter has been filed by the second respondent, who has issued the impugned show cause notice, denying the allegations of the petitioner. They would contend that there is no delay on the part of the second respondent and therefore, there was no inordinate delay on the part of the second respondent in proceeding further with the impugned show cause notice. They have also stated reasons in the counter affidavit as to why it cannot be construed that there was an inordinate delay on the part of the second respondent to pass the final adjudication order. It is also to be noted that in view of the interim stay granted by this Court, the show cause notice could not be proceeded with after the filing of this writ petition.

4. Learned standing counsel appearing for the respondent would submit, on instructions, in the presence of the officers of the respondents, that if a direction is issued, final adjudication order will be passed by the



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first respondent within a time frame to be fixed by this Court after affording a personal hearing to the petitioner to enable the petitioner to explain once again to the respondent as to why, according to them, there has been an inordinate delay in the passing of the final adjudication order and therefore, on that ground, the impugned show cause notice has to be quashed.

5. No prejudice will be caused if a direction is issued to the first respondent to pass final orders pursuant to the issuance of the impugned show cause notice dated 25.01.2011 to the petitioner on merits and in accordance with law after affording a personal hearing to the petitioner and also providing them with an opportunity to submit a written explanation to the first respondent, as to why the impugned show cause notice has to be quashed.

6. Accordingly, this Court directs the first respondent to pass final adjudication order pursuant to the issuance of the impugned show cause notice dated 25.01.2011 to the petitioner after providing one personal hearing to the petitioner and also after permitting the petitioner to submit a written explanation as to why the impugned show cause notice has to be



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quashed and also permitting the petitioner to rely upon the precedents of various Courts and after giving due consideration to the same, a direction is issued to the first respondent to pass final orders within a period of two months from the date of receipt of a copy of this order.

7. With the aforementioned directions, this writ petition is disposed of. No Costs. Consequently, connection miscellaneous petition is closed.

28.02.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To
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ABDUL QUDDHOSE. J.,

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