
(2008) 01 BOM CK 0016
In the Bombay High Court
Case No : Writ Petition No. 498 of 2008

Manish Lalitkumar Bavishi	Vs	APPELLANT
Addl. Dir. General, DRI		RESPONDENT

Date of Decision : 24-01-2008

Acts Referred:

Citation : (2012) 27 STR 203

Hon'ble Judges : R.S. Mohite, J; F.I. Rebello, J

Bench : Division Bench

Advocate : A.D. Ray, for the Appellant; N.V. Masurkar with S/Shri D.A. Dubey and H.P. Chaturvedi, for the Respondent

Judgement

1. P.C.: Rule. Heard forthwith. The petitioner by his letter dated 23-11-2007 sought copies of the documents seized in the office premises on 20-2-2007 under panchanama and print outs drawn from the Laptop during his attendance in DRI. In response to his application, petitioner received a communication on 18-12-2007 wherein it was set out that the documents would be provided to him on completion of the investigation. It was men set out that the petitioner may inspect all the documents and if any document is found relevant to the present show cause notices issued the copies of the same would be supplied to the petitioner.

2. It is on account of failure by the respondent to make available the documents to the present petitioner.

3. Section 110(4) of the Customs Act, 1950 [(sic) 1962] read as under :-

The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extract therefrom in the presence of a officer of Customs.

4. From the language of the sub-section, it is clear that it is mandatory on the officer of Customs to make available the copies asked for. The choice of either

asking for the document or seeking extract is of the party concerned and not that of the officer. In other words, if any document is seized during the course of any action by an officer and relatable to the provisions of the Customs Act, that officer is bound to make available those documents. The action, therefore, of the respondents in communicating to the petitioner that documents would not be available, is clearly an act without jurisdiction. We fail to understand as to why statutory authority failed to discharge the duties according to law and driving the party to this Court for seeking relief.

5. We, therefore, direct the respondents to make available the copies of the documents asked for by the petitioner which was seized during the course of the seizure action, needless to say at his own cost, within a period of seven days from today. Rule made absolute accordingly. We make it clear that if the documents are not made available in terms of the order of this court, the respondents will have to pay cost quantified as Rs. 50,000/- to the petitioner which will be recovered from the salary of the officer concerned.