(2016) 07 KL CK 0045

In the High Court Of Kerala

Case No : Writ Petition (C) No. 23764 of 2016 (U)

Mansur Ilahi APPELLANT

Vs

Commr. of Cus. (Preventive), Ernakulam RESPONDENT

Date of Decision : 18-07-2016

Acts Referred:

Citation : (2016) 340 ELT 130

Hon'ble Judges : P.B. Suresh Kumar, J.

Bench : Single Bench

Advocate : Shri C.P. Mohammed Nias, Advocate, for the Petitioner; Shri Sreelal N. Warrier, Advocate, for the Respondent

Final Decision : Allowed

Judgement

P.B. Suresh Kumar, J.—On 4-8-2015, the police officers attached to Iritty Police Station seized three gold bars weighing one kilogram each and Indian currency of Rs. 1,10,00,000/- from the petitioner and produced the same before the jurisdictional Magistrate. On 10-9-2015, the officials under the respondent received the seized goods from the Court of the Magistrate for proceeding against the petitioner under the Customs Act. The grievance of the petitioner is that though the seizure was effected as early as on 4-8-2015, till date, no notice in respect of the same was given to him under clause (a) of Section 124 of the Customs Act. According to the petitioner, since no notice was issued to him under the said provision within six months from the date of seizure of the goods, the goods are liable to be returned to him. The petitioner, therefore, seeks appropriate directions to the respondent to return the goods seized from him by the police on 4-8-2015.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. Section 110(2) of the Customs Act reads thus :

"Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of Section 124 within six months of the seizure of the goods, the goods shall be returned to the person whose possession they were seized :

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Principal Commissioner of Customs or Commissioner of Customs for a period not exceeding six months."

It is beyond dispute that no notice under clause (a) of Section 124 of the Customs Act in respect of the seizure of the aforesaid goods was issued to the petitioner till date. There is also no case for the respondent that the period fixed for initiating proceedings under Section 124 of the Customs Act has been extended in the case of the petitioner as provided for under the proviso to Section 110(2) of the Customs Act.

4. In the circumstances, the writ petition is disposed of directing the respondent to return the goods seized from the petitioner as provided for under Section 110(2) of the Customs Act within one month from today. It is made clear that this judgment will not preclude the respondent from proceeding against the petitioner under the Customs Act, if he has violated any of the provisions therein.

